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PERQUISITES AND PILFERING
IN THE
LONDON DOCKS, 1700-1795

Thesis submitted for the
Degree of
Master of Philosophy
in the Faculty of Arts,
at the Open University

BY: PETER A.M. D'SENA, B.A.(Soton.)

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TABLE OF CONTENTS

	Page
ABSTRACT	3
ACKNOWLEDGEMENTS	4
CONVENTIONS	5
LIST OF ILLUSTRATIONS, MAPS, TABLES AND GRAPHS	6
 <u>INTRODUCTION</u>	 8
<u>CHAPTER 1:</u> London Docks and Dockers	14
<u>CHAPTER 2:</u> Pilfering and Bridewell	43
<u>CHAPTER 3:</u> Prosecution and Magistracy	72
<u>CHAPTER 4:</u> Detection and Criminality	102
<u>CHAPTER 5:</u> Perquisites and Casual Labour	145
<u>CONCLUSION</u>	185
 <u>BIBLIOGRAPHY</u>	 190

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TITLE OF THESIS: PERQUISITES AND PILFERING IN THE
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ABSTRACT

During the eighteenth-century the busiest part of London's port was an area on the North Bank of the Thames, from London Bridge in the west, to Limehouse, in the east. It was here that many ships and smaller vessels loaded and unloaded their cargo, and goods were often moved into nearby warehouses or stored on the quays themselves. As the volume of trade increased during this period, so too did congestion on the waterfront, providing ample opportunities for the appropriation of many goods, especially those in transit.

However, the appropriation of goods was something that could be interpreted in different ways. For example, many appropriations were viewed as criminous. First, those cases that were deemed petty were often dealt with in the City of London's Court of Summary Jurisdiction, the famous Bridewell. Other offences, which magistrates and prosecutors preferred to see as more serious, were prosecuted by indictment and therefore came before the Court of the Old Bailey. Furthermore, Dockside Constables also had a special part to play in detecting and apprehending suspects. Their role in the chain of decision-making constituted another variable in the complex legal mechanisms.

Other appropriations were not seen as criminal at all, but rather as the legitimate payment or perquisite of workers in return for a service rendered. However, employers, employees and constables sometimes disagreed (or were uncertain) about the boundaries of legitimacy and, on such occasions, an appropriation was liable to be interpreted as theft. Cases that could only be resolved in Court, particularly those which led to an Old Bailey appearance, have left some important testimonial evidence. That, therefore allows an investigation of the fine line, which divided perquisites and pilfering on the London Docks.

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I have benefitted greatly from discussion with many scholars. My debt to my research supervisor, Dr. P.J. Corfield, is a large one; and extends to all those people, who over a number of years at London's Institute of Historical Research have helped, encouraged, and stimulated me. Thanks are also due to Dr. John Rule, Dr. Bob Bushaway, and the late Fred Dwyer, who at Southampton in the mid-1970s guided and inspired me far more than they realised.

I must also thank the members of staff at the Corporation of London Record Office and the Guildhall Library, as well as the Royal Bethlem Hospital Archivist, Patricia Allderidge, for their advice and assistance. I also owe a debt of gratitude to Dr. K. Wilson, of the Open University, for giving me the opportunity to begin this work and the patience to let me see it through.

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CONVENTIONS

Place of publication for all books mentioned is taken to be London, unless otherwise indicated.

Quotations from original sources have been left in their original form, wherever possible; and amendments where necessary kept to a minimum.

Dates are given Old Style before 1752, except that the year has been taken to begin on 1 January.

LIST OF ILLUSTRATIONS

- 1 Boitard's Engraving: The Imports of Great Britain from France (1757).
- 2 Vanhaecken's Engraving: The View and Humours of Billingsgate (1736).
- 3 Bowles's Engraving: A View of the Custom House,... London (mid C.18).
- 4 Rowlandson's 'Cooper' from Characteristic Sketches of the Lower Orders... a Companion to the New Picture of London (1820).

LIST OF MAPS

- 1a Dockside Parishes from Rocque's Plan of... London (1744-46): Queenhithe to Tower.
- 1b Dockside Parishes from Rocque's Plan of... London (1744-46): Tower to St. John's Wapping.
- 2 Late Eighteenth-Century London, showing Dockside Parishes.

LIST OF TABLES

- 1 London's Changing Share of England's Overseas Trade, 1700-1800.
- 2 Population of North Bank Dockside Parishes in London, 1801.
- 3 Prisoners before the London Bridewell Court, 1696-1770.
- 4 Dockside Offenders at the Old Bailey, 1684-1800.
- 5 Dockside Cases before the Bridewell Court per Mayoral Year, 1725-56.

LIST OF GRAPHS

- 1 Prisoners before the London Bridewell Court,
1696-1772.
- 2 Dockside Pilferers and Price Index, 1696-1772.
- 3 Cases of Dockside Crime at the Old Bailey,
1730-1800.

INTRODUCTION

'There is scarce a ship gets unloaded,
but there are vast quantities stole.'

Counsel for Prosecution, Case of Charles
Lawsin, Old Bailey Sessions Papers, 16-19
Jan. 1749.

'It is my right and property, as is all
such stuff in shipyards, to all the
labourers in the river.'

Alexander Gater's defence, Case of Gater
and John Stoaker, Old Bailey Sessions
Papers, 16-17 Jan. 1760.

Was the appropriation of materials by labourers on the London waterfront an allowable perquisite or a crime? Attitudes towards property and the law, as these quotations suggest,¹ were neither simple nor homogeneous in the eighteenth century. Moreover, the diversity of attitudes is not easy for the historian to establish, particularly those of the working people on the wharfs and quayside, who, apart from when their views were enshrined in judicial proceedings, left very little recorded comment about their perceptions of the law (or, indeed, of any other matters either). Yet the quest for an understanding of popular attitudes towards the law, 'that most elusive of historical quarries', has been recognised by recent

¹For detailed discussion of these cases, see Chapter 5, passim and especially pp. 165-167.

writers¹ as one important way of fleshing the skeleton, presented to posterity by the framework of the police and judicial system and the imperfect crime statistics it generated.

Concern for popular as well as official viewpoints stems from the historiographical tradition established in the 1960s, when the dimensions of the 'new' social history were established. Historians were warned against 'obliterating the complexities of motive, behaviour, and function', and the consequent dangers of upholding a 'spasmodic view of history', whereby complex popular motivations were reduced to the simplest of primary stimuli.² In the celebrated example of eighteenth-century riots, the spasmodic view proposed simple 'distress' or 'rebellions of the belly',³ whereas E.P. Thompson strongly argued the case that popular behaviour was to be interpreted in a complex nexus of 'custom, culture, and reason'.⁴

Working in this new tradition, some of the pioneering historians of law and crime in the early modern period

¹J. Brewer and J. Styles (eds.), An Ungovernable People: The English and their Law in the Seventeenth and Eighteenth Centuries (1980), p.14. For an insight into some of the records left by the lower orders, see E.P. Thompson, 'The Crime of Anonymity', in D. Hay, P. Linebaugh and E.P. Thompson, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England (1977 edn.), pp.255-344.

²E.P. Thompson, 'The Moral Economy of the English Crowd in the Eighteenth Century', Past and Present, 50 (1971), p.78.

³Ibid., pp.76-7.

⁴Ibid., p.78.

have, in consequence, in their examinations of the mechanisms and structures of law enforcement, authority, and legal institutions, raised questions about how they were both used and regarded by different strata of contemporary society.¹ Many issues that were central to the workings of the legal system have come under important scrutiny. There have been discussions, for instance, concerning the abstract concepts of mercy, deference, and legitimacy;² debates about the factors influencing the discretion used by constables, prosecutors, judges, and juries;³ and (most pertinently for this study), discussion of the controversies surrounding the relationship

¹See Hay, Linebaugh and Thompson, op.cit., passim. All the contributors to this book were associated with Thompson at one time in the Centre for the Study of Social History at the University of Warwick. See also E.P. Thompson, P. Linebaugh, D. Hay, 'Eighteenth-Century Crime, Popular Political Movements and Social Control', Bulletin of the Society for the Study of Labour History, XXV (1972), pp.9-15; J.G. Rule, 'Social Crime in the Rural South in the Eighteenth and Early Nineteenth Centuries', Southern History, I (1979), pp.135-53.

²Hay, 'Property, Authority and the Criminal Law', in Hay, Linebaugh etc., op.cit., pp.17-63, set the context of the debate in his analysis of the concepts of majesty, justice, mercy, delicacy and circumspection.

³D. Hay, 'War, Dearth and Theft in the Eighteenth Century: The Record of the English Courts', Past and Present, 95 (1982), pp.145-60. (Hereafter cited as 'War, Dearth and Theft'). For general discussion of these problems, see C. Emsley, Policing and its Context, 1750-1870 (1983) and P. King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800', Historical Journal, 27 (1984), pp. 25-58.

of workplace crime to the legitimate perquisites of labour.¹

In this fast-growing field of investigation, there is scope for individual case-studies based on specific sets of legal documentation. However, there are many methodological problems, as recent work has emphasised. The problems experienced in the collection, quantification, and interpretation of criminal statistics have called into question easy perceptions of the nature and incidence of crime.² There are fundamental questions. What is the validity of the sample? Was the typical offender ever caught? What is the relationship between court statistics and actual crimes committed? How appropriate is it to measure disparate crimes together (crimes of

¹The most interesting study of the relationship between crime and labour is to be found in P. Linebaugh, 'Tyburn: A Study of Crime and the Labouring Poor in London during the First Half of the Eighteenth Century' (unpublished Ph.D. thesis, University of Warwick, 1975). For a synthesis of work on perquisites and embezzlement at work, see J.G. Rule, The Experience of Labour in Eighteenth-Century Industry (1981), pp.124-46. The work of sociologists has also been useful in understanding the complex inter-relationship between crime, labour, and perquisites. See J. Ditton, 'Perks, Pilferage and the Fiddle: The Historical Structure of Invisible Wages', Theory and Society, IV (1977), pp.39-71, and G. Mars, Cheats at Work: An Anthropology of Workplace Crime (1983).

²For a discussion of the problems involved, see J.A. Sharpe, 'The History of Crime in Late Medieval and Early Modern England: A Review of the Field', Social History, VII (1982), pp.189-90; T. Curtis, 'Explaining Crime in Early Modern England', Criminal Justice History: An International Annual, I (1980), pp.117-38; and a major survey, J.M. Beattie, Crime and the Courts in England, 1660-1800 (1986). (This work is hereafter cited as Crime and the Courts).

violence, for example, with cases of theft), even if they would both have been categorised as felonies and potentially subject to the same penalties? Can the statistics of crime and (say) indices of economic trends be correlated significantly together? Did the criminalisation of hitherto legitimate activities - or changes in administrative and judicial procedure - create crime in some way?¹

Equally, there are key problems of definition. Are historians being anachronistic if they turn crime into 'a tool for examining social standards and behaviour'?² What was 'real crime': treasons and felonies, punishable by death, or the more prevalent petty offences?³ What is/was 'crime' at all?⁴ In answering these questions, the evidential and ideological diversity has created a

¹On the subject of crime-waves and control-waves, see J. Ditton, Controlology: Beyond the New Criminology (1979), pp.8-50. According to Ditton, p.1, 'Controlology is the basis for an analytical programme evolved to convert [the labelling] perspective into a theory' (in which deviance is seen as the result of the application of rules and penalties by 'controllers', rather than being determined by the actions of 'offenders'). For an eloquently stated alternative, which points to the weaknesses of Ditton's model for historians, see Hay, 'War, Dearth and Theft', pp.117-60, esp. pp.119-20.

²G.R. Elton, 'Introduction: Crime and the Historian' in J.S. Cockburn (ed.), Crime in England, 1550-1800 (1977), p.2.

³Ibid., p.4.

⁴Sharpe, op.cit., pp.191-2. Sharpe gives a useful institutional definition of crime as 'illegal behaviour, which, if detected and prosecuted, led to a criminal charge answerable in a court of law, and carrying certain penalties' (p.188).

fertile field for debate and investigation.¹ It has stimulated enquiries into subjects as diverse as wood-gathering in the forest of Grovely to the characteristics of infanticide and its prosecution.² The study that follows offers a contribution to the debate, with a study of petty theft on the eighteenth-century London quayside.³ In sequence, attention is given to the nature of the dockside communities; the records of Mayoral jurisdiction, the Bridewell, and the Old Bailey; and finally, *detection* and the fine line dividing perquisites from pilfering.

¹For a good analysis of earlier studies, see L.A. Knafla, 'Crime and Criminal Justice: A Critical Bibliography' in Cockburn, op.cit., pp.270-298. For a critique of the Thompsonite school of thought and in particular Hay's thesis, see J.H. Langbein, 'Albion's Fatal Flaws', Past and Present, 98 (1983), pp.98-119.

²For specific studies, see inter alia: B. Bushaway, By Rite: Custom, Ceremony and Community in England, 1700-1880 (1982), pp.209-211; and R.W. Malcolmson, 'Infanticide in the Eighteenth Century' in Cockburn.(ed.), op.cit., pp.187-209.

³The records also encompass cases of larger-scale organised crime, into which further research is planned; but they have been excluded from this study.

CHAPTER 1

LONDON DOCKS AND DOCKERS

To this city, from every nation that is
under heaven, merchants rejoice to bring
their trade in ships.¹

London's immense growth and intricate history were closely linked with its commercial might. The arrival of the Romans in 43 A.D. had been the first step in the transformation of an area, that came to be known as the City of London,² from an economic and political backwater into a great centre of communications and trade. Wharves were quickly built on both sides of the first bridge, so that, writing in 91 A.D., Tacitus could claim that Londinium was already 'famed for commerce and crowded with traders'.³

¹Fitzstephen, A Description of London (c.1170), quoted in A.F. Scott, Everyone a Witness: The Plantagenet Age - Commentaries of an Era (1975), p.27.

²I have used 'City' to mean the area within the walls, and 'London' to include the area outside the walls that eventually grew into the conurbation of Greater London. 'Wharf' and 'Quay' have been used as interchangeable words throughout.

³See Tacitus, The Annals of Imperial Rome (Penguin, revised edn., 1978), pp.8-9; R.C. Jarvis, 'The Metamorphosis of the Port of London', London Journal, III (1977), p.55, dates Tacitus's description as 91 A.D. Whether or not the Romans built a bridge must remain conjectural. Common sense would suggest they did - they were certainly capable and it would make more sense of their road system in Southwark. There remains no hard archaeological evidence to prove that one existed. For the debate, see R. Gray, A History of London (1978), p.27; and C.W. Shepherd, One Thousand Years of London Bridge (1971), pp.11, 21-22.

Details of its early medieval development are obscure, but extensive commercial contacts were recorded in the tenth century; and growth accelerated thereafter. A new London Bridge, the first to be built of stone, was completed in 1209. That made it difficult, indeed irksome, for boats to take their produce to the quays at Queenhithe, just to the west of the Bridge. New specialist quays therefore developed, downriver; and Queenhithe went into relative decline. Thus, the quays in Vintry Ward handled Mediterranean wines, Bear Quay handled wheat, and perishable goods went to Billingsgate. Queenhithe remained important for meal and malt, which was sold in a nearby market, but even so, much of its grain was taken by the other quays, particularly Billingsgate.¹ (See Maps 1a and 1b, for location of quays).

By the sixteenth century, London had become a major European capital and a centre of international trade.²

¹For details of the medieval quays, see City of London Archaeological Trust, Archaeology of the City of London: Recent Discoveries by the Department of Urban Archaeology (1980), pp.44-53. For specific quays, see J. Strype, A Survey of the Cities of London and Westminster: Containing the Original, Antiquity, Increase, Modern Estate and Government of those Cities. Written at first in the Year 1598 by John Stow, Citizen and Native of London (1720), II, 165; III, 214-5; also H. Humphreys, History of the Company of Watermen and Lightermen (1874-86), p.11.

²See B. Dietz (ed.), The Port and Trade of Elizabethan London (1972); and G.D. Ramsay, The City of London in International Politics at the Accession of Elizabeth Tudor (1975).

MAP 1a. Dockside Parishes from Rocque's Plan of... London (1744-46): Queenhithe to Tower.



MAP 1b. Dockside Parishes from Rocque's Plan of... London (1744-46): Tower to St. John's Wapping.



All the quays downriver from the Bridge attracted a growing volume of business, while Queenhithe specialised in West Country grain. New competition was also provided by wharves on the Surrey banks of the Thames.¹ Congestion on the quayside, however, continued to increase. Furthermore, larger ocean-going ships faced difficulties of access. They found that they had to unload in mid-stream and the goods be conveyed by lighters to the dockside.

Hence, yet more quays, unauthorised but necessary, were therefore suffered to come into existence by the Customs. These 'sufferance wharves', despite initial limitations upon their hours of work and categories of goods, lined the eastern reaches of the Thames. They galvanised the economic history of the riverside parishes of Stepney. By 1720, their growth had elicited admiration from John Strype:²

Stepney may be esteemed rather a province than a parish ... For... it lies along the River Thames for a great way, by Limehouse, Poplar and Radcliffe, to Wappin'; it is furnished with everything that may intitle it to the Honour... of a great Town. Populousness, Traffick, Commerce, Havens, Shipping, Manufacture, Plenty, and Wealth, the Crown of all.

¹The only legal quay on the south bank was the Bridgehouse, which dealt mainly with grain because there were ovens nearby for baking. For the Act of 1 Eliz I, Cap.11 (1559) that established a system of 'legal quays', see Strype, op.cit., II, 49.

²Ibid., IV, 47.

The site, to the east of the old City, was heavy clay soil and difficult to build on. Without an embankment, it also suffered from floods. Yet 'Wapping in the Woze',¹ or Wapping in 'the Wash', emerged in response to the imperatives of commercial expansion. Its life revolved around the docks, and the services provided by its dockers.

* * * * *

London's trade in the eighteenth century faced complex evolutions of growth and change. Visiting the city in 1789, J.H. Meister penned an enthusiastic contribution to the chorus of praise:²

You are not ignorant that London alone transacts two thirds of the trade of the three Kingdoms; ... to take a view of the extent and grandeur of the commerce of this first trading nation in the world, you must penetrate the busy throng which constantly blockades the Strand, and proceed... till you mix with the crowds which fill up every avenue to the Custom-House; you must next take boat to go down the Thames, and see the bosom of that noble river bearing thousands and thousands of vessels, some sailing up or down, going or coming from every part of the world, and others moored in five or six tiers as closely to each other as it is possible for them to be; you will then confess that you have beheld nothing that can give you a stronger idea of the noble and happy effects of human industry.

¹C.L. Kingsford, A Survey of London by John Stow: Reprinted from the Text of 1603, with Introduction and Notes (1908), II, 70-71.

²L. Radzinowicz, A History of English Criminal Law and its Administration from 1750 (5 vols., 1748-86), II, 349: citing J.H. Meister, Letters Written during a Residence in England (written 1789, in 1799 translation), pp.17-18. Also see idem, Souvenirs de mes Voyages en Angleterre (1795), pp.27-28, which appears slightly different from the translation in Radzinowicz.

His account gave a vivid, if controversial, eye-witness account. True, there were 'thousands and thousands of vessels' - so many that only a narrow channel of water was left open in the middle; but that the labour of the coal-heavers, lumpers, shipwrights, coopers, porters, seamen, and meters was always 'noble', or indeed 'happy', is questionable. The eighteenth century has left enough documentary evidence of pilfering and other 'outrages' to understand why a marine police had to be formed in 1798. These were chronic problems on the quayside; and they were becoming more acute, with the opportunities provided by commercial growth.

Meister's initial observation of London's share of the nation's trade has, however, proved to be reasonably accurate. Patrick Colquhoun in his Treatise on the... River Police (1800)¹ provided intricate statistics so characteristic of his work, which also implied a proportion for 1797 of just over 65%. The best estimates from modern economic historians confirm something of the scale of business at the end of the eighteenth century. But, as Table 1 indicates, that represented a slight fall from its predominance in 1700, when it had accounted for 76% of the national total.²

¹P. Colquhoun, A Treatise on the Commerce and Police of the River Thames: Containing an Historical View of the Trade of the Port of London; And Suggesting Means for Preventing the Depredations thereon, by a Legislative System of River Police (1800), pp.18-23, gives details, down to the last penny. (This work is hereafter cited as River Police).

²P.J. Corfield, The Impact of English Towns, 1700-1800 (1982), pp.71-2, summarises the conclusions of economic and maritime historians.

TABLE 1. LONDON'S CHANGING SHARE OF ENGLAND'S OVERSEAS
TRADE, 1700-1800

Goods cleared through the Port of London	Annual average for 1699-1701 (At official valuation in £ million)	Annual average for 1752-4	Single year 1790
Imports (Percentage of all English imports)	£4.6 (79.7)	£6.0 (72.7)	£12.3 (70.7)
Exports + Re-exports (Percentage of all English export trade)	£5.3 (72.6)	£8.0 (67.8)	£10.7 (56.6)
Total overseas trade (Percentage of all English overseas trade)	£9.9 (75.8)	£14.0 (69.8)	£23.0 (63.4)

SOURCE: From figures in P.J. Corfield, The Impact of English Towns, 1700-1800 (Oxford, 1982), p.72.

These statistics and the myriads not quoted all have one thing in common - they rely on monetary rather than volumetric evaluation and therefore have to be used with care. Nevertheless it is possible to draw some conclusions. London lost ground, in relative terms, to the out-ports during the eighteenth century, even though the value of its trade probably quadrupled during the period 1750-1800.¹ Even so, it was still the main national and international port, importing and re-exporting an enormous variety of

¹Jarvis, op.cit., p.63. Liverpool's docks, for example, were opened in 1715.

luxury goods and raw materials, in an attempt to quench the thirst of a demanding and growing city and an expanding empire. However, as the Thames became more crowded and London's population grew, the legal and sufferance wharves - from Westminster to Limehouse - found it increasingly difficult to cope with this gargantuan task.¹

If contemporary accounts are anything to go by, then eighteenth-century pictures of orderly wharves owe a great deal to artistic licence. Instead, the view would have been obscured by the masts of craft, 'as thick as the pine stems in their native forests'. Daniel Defoe, brought up in an era when anti-Dutch feelings ran high, felt determined to score points for England, when sailing through the Port. He wrote in 1725:²

I have had the curiosity to count the ships as well as I could, en passant, and have found above two thousand sail of all sorts, not reckoning barges, lighters or pleasure-boats, and yachts; but vessels that really go to sea.

He was confident this would prove England's commercial superiority over the Dutch. Had he wished, he could

¹By 1793, when William Vaughan began a campaign for wet docks, they were long overdue. See analysis in ibid., p.63.

²D. Defoe, A Tour through the Whole Island of Great Britain (ed. P. Rogers, 1971), p.317. Notably, at about the same time (1726-9), Voltaire diplomatically remarked on 'the beauty of the Thames, the crowd of vessels and the vast size of the city of London': see F.M. Wilson, Strange Island: Britain through Foreign Eyes, 1395-1940 (1955), p.72.

also have counted numerous smaller vessels, undertaking the coastal trades and servicing the busy fishing industry.¹

There were seasonal variations in the amount of business on the Thames. The fortunes and misfortunes of naval warfare also provoked fluctuations in the annual volume of trade, although not all wars proved equally devastating.² The eighteenth-century Port suffered additional complications. As the average tonnage of visiting ocean-going ships more than doubled during the period, more lighters were necessary to convey goods from the deeper downstream berths. And, with warehouse and wharf space at a premium, even lighters became floating storage containers.³ The complaint of contemporaries was twofold. The overcrowded Thames not only led to commercial inefficiency but to 'depredations'; the river's glittering obstacles presented criminals with golden opportunities and the authorities with a financial headache.

¹For example, the Toll books of 1729 show that, in the six-week mackerel season (16th May-6th July), 589 boats came to Billingsgate. Other seasonal goods, such as oysters in September-March, brought 991 boats. 1398 small boats with other fish were also recorded. See W. Maitland, The History and Survey of London (3rd edn., 1760), II, 758.

²There is scope for a good study of the impact of war upon London's trade and shipping.

³On the average tonnage of ships, see Colquhoun, River Police, pp.8-10; and Radzinowicz, op.cit., III, 350, who suggests that half the 2,000 barges were used as 'warehouses'. For more statistics of Thames shipping, see also T. Allen, The History and Antiquities of London, Westminster, Southwark, and Parts Adjacent (1828), III, 9.

According to the evidence of the Old Bailey Sessions Papers, (a key source of information),¹ many of these 'criminals' were labourers on the ships and wharves. No doubt many had been attracted to the magnet of London by the promise of work. By 1700, for example, over 400,000 chaldrons of coal were imported per annum,² work enough for almost a thousand 'heavers'; and, of course, the immigration this entailed further promoted the growth of London and its *commercial requirements for food, fuel, and labour*. It has been calculated that a net addition of at least eight thousand people were needed each year to sustain its growth in the early eighteenth century.³ Between 1750 and 1800, London grew yet more substantially. It was the capital city, a major centre for production, distribution, and consumption; and, of course, a great international port.

In 1700, the sprawling metropolis contained some 600,000 souls. One calculation, analysing parish registers retrospectively and assuming that baptisms bore the same

¹For this source, and the extent or otherwise of criminality, see below, pp. 88, fn.3; 98, Table 4; 135-136, Graph 3.

²R. Smith, Sea Coal for London (1961), pp.49, 363-4: these were 'London' chaldrons.

³The pull of London ranged from the possibility of work for the Scots, Irish and rural unemployed to intellectual and cultural stimulation, plus the search for possible patronage, by young aspirants to literary fame, such as Boswell. See E.A. Wrigley, 'A Simple Model of London's Importance in Changing English Society and Economy, 1650-1750', Past and Present, no.37 (1967), esp. 46-9.

relation to total population as they did in 1801, suggested a figure of 674,500.¹ Others have proposed a lower total of 575,000.² There is general agreement, however, upon a figure of approximately 675,000, by the mid-eighteenth century.³ That meant that London's net growth in these decades had been relatively sluggish, although there was much population mobility into and out of the city. After 1750, however, its expansion became more marked, and at the first Census in 1801 its population was very close to the huge total of one million inhabitants.⁴

There are difficulties in establishing, within this mass of population, the exact numbers living within the dockside parishes; and even more so, in calculating the numbers employed in the London docks. Clearly, however, they numbered thousands; and, clearly too, there was an abundant supply of labour in the wharfside parishes, from which they were recruited. Table 2 gives the population of the north-bank dockside parishes from London Bridge to Limehouse in 1801, and shows that they housed some 7.8% of the population of metropolitan London as a whole.

¹M.D. George, London Life in the Eighteenth Century (1926; reissue, 1976), pp.37-38. For another estimate, see F. Braudel, 'Pre-Modern Towns', in P. Clark (ed.), The Early Modern Town: A Reader (1976), p.83.

²Wrigley, op.cit., p.44.

³Ibid., p.44; George, op.cit., p.37.

⁴Corfield, op.cit., p.8.

TABLE 2. POPULATION OF NORTH BANK DOCKSIDE PARISHES
IN LONDON, 1801

	1801	% of 'greater' London
Dockside Parishes within the City of London ¹	19,142	2.0%
Dockside Parishes without the walls ²	55,036	5.8%
TOTAL	74,178	7.8%
GREATER LONDON	approx. 950,000	-

SOURCE: 1801 Census Returns, B.P.P., VI (1801/2), pp.209-13.

- Notes: 1. Parishes from London Bridge to the Tower, including Allhallows Barking, St. Botolph's, St. Dunstan's-in-the-East (parish and precinct) and St. Mary-at-Hill.
2. Parishes from the Tower to Limehouse, including Ratcliffe, St. Anne Limehouse, St. Botolph Aldgate, St. George-in-the-East, St. John Wapping, St. Katherine by the Tower, and St. Paul Shadwell.

It was within these dockside parishes that the dockers' community lived - close to the river and its distinctive way of life. Assuming that approximately half the adult males in these parishes were engaged in work related to the river and docks, that would constitute a workforce of over 9,000 in 1801, a sizeable community within the London economy.

* * * * *

The building of the London quays was perforce reassessed, after the damage caused by the Great Fire in 1666. The city wharfingers (or wharf-masters), whose privileges had been confirmed not long before the Fire, were more interested in maintaining their rights than in grandiose plans, such as those proposed by Wren or Evelyn. A first rebuilding Act in 1667 suggested that rubble from the fire should be used to level the wharves and improve the gradient of Thames Street. Furthermore, there were to be no buildings within forty feet of a newly defined waterline, and coal was to be taxed at 1/- a chaldron to pay for reconstruction.¹ The wharfingers, keen to ensure that trade could recommence, acted promptly and, by the second rebuilding Act in 1670, the 'Thames Quay' had been established below London Bridge, almost without the aid of public funds.² From the middle of this long quay, the rubble of the fourteenth-century Custom House was cleared, although Christopher Wren, who designed its replacement, outlived his creation, which perished in turn in a fire in 1715. A new Custom House, familiar to most eighteenth-century Londoners and 'calculated more

¹The Act of 13+14 Chas II, cap.11, defined the area under the jurisdiction of the Port of London as being from London Bridge to North Foreland (Isle of Thanet). See C. Capper, The Port and Trade of London, Historical, Statistical, Local, and General (1862), p.140; and generally also, T.F. Reddaway, The Rebuilding of London after the Great Fire (1940). For Evelyn's plan, see J. Noorthouck, A New History of London, including Westminster and Southwark... (1773), p.233.

²Reddaway, op.cit., p.223.

for utility and duration than beauty', was built in 1718.¹ Boitard's engraving of a crowded scene at the Custom House Stairs in 1757 provides an interesting supplement to documentary evidence. (See Illustration 1). Porters struggle with a load, passengers wait for their boat, and poor hands surreptitiously find their way into pockets of the rich and gullible. Everywhere, the cranes are at work fighting the impossible battle of clearing their loads, and open and broken hogsheads spill their goods onto the quayside.²

Only a few yards west of this busy and slightly dishonest scene - so typical of the quayside, according to most writers - lay the ancient hithe of Billingsgate, 'the Esculine gate of London' or in other words a key access-point to the city's food markets.³ John Entick, writing in 1766, observed that Billingsgate Ward was 'well inhabited'. This seems indeed plausible: a seventeenth-century complaint had been that the presence of wealthy foreign merchants, living near their trade, had created

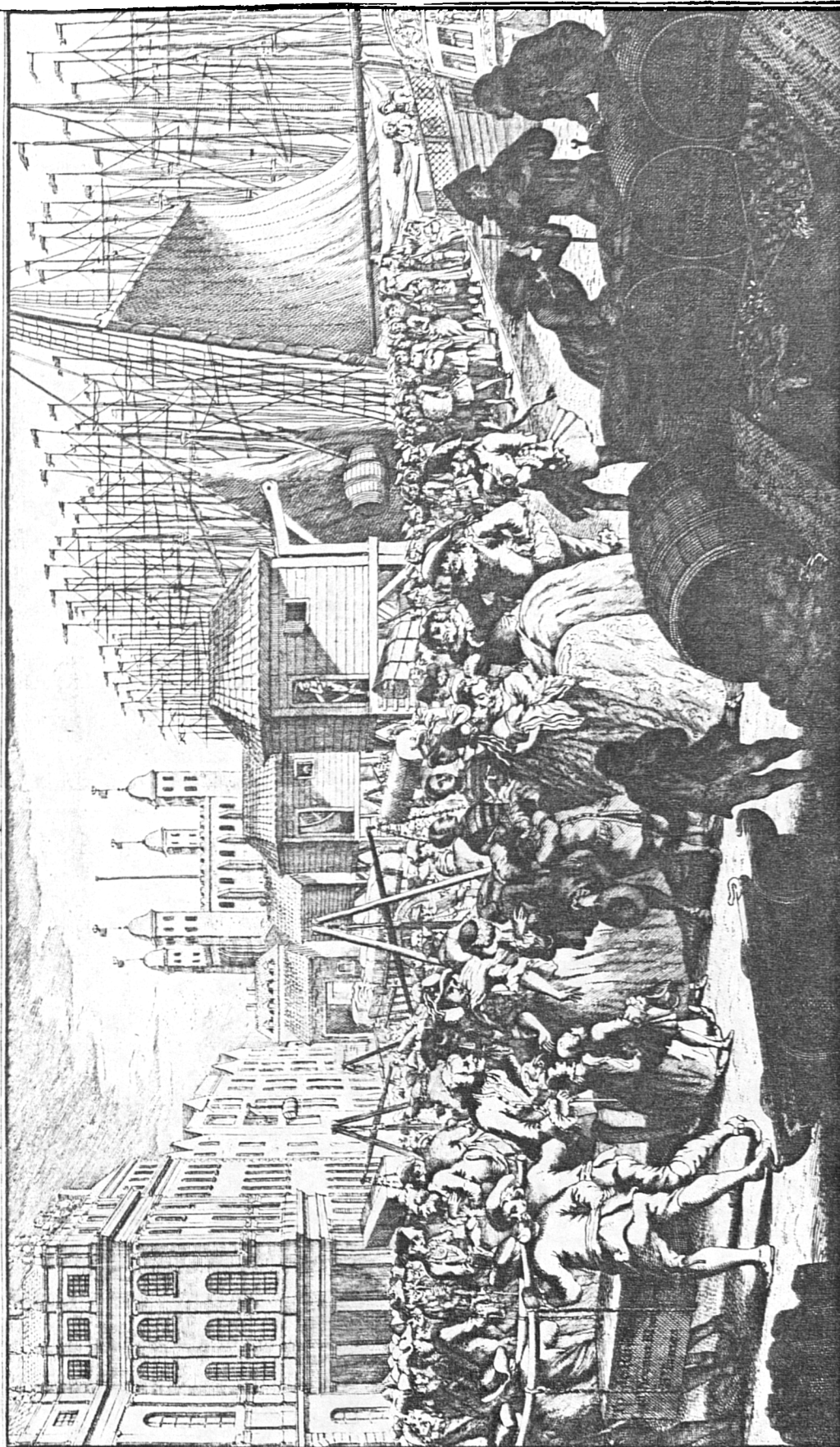
¹J. Fielding, A Brief Description of the Cities of London and Westminster (1776), p.9. See also W. Thornbury, Old and New London: A Narrative of its History, its Peoples, and its Places (6 vol: 1879-85), II, 55: for an engraving of the eighteenth-century House in 1753. It too perished by fire, in 1814.

²This engraving by Jean Louis Boitard, The Imports of Great Britain from France (1757), reproduced here as Illustration 1 is available at the Guildhall Library, London.

³The Liveryman, Vol.35 (May 31, 1930), citing Thomas Fuller's dictum of 1662.

ILLUSTRATION 1. Boitard's Engraving: The Imports of Great Britain from France (1757).

Humility & Addressed to the **THE IMPORTS OF GREAT BRITAIN FROM FRANCE** *by their sincere Well-wisher, and truly devoted humble Servant, L. Boitard.* *the generous promoters of the British & Manufactories*



artificially high rents.¹ However, it was the labourers, according to contemporaries, who were responsible for the baser elements of the ward's character. The fishwives in particular were notorious. The definition of 'Billingsgate' in Bailey's English Dictionary of 1736 was a 'scolding impudent slut', and the vulgarity of the Thames Watermen was also common knowledge. The Watermen's Company had decided in 1701 that it was in the best interests of trade to fine their members 2/6d for bad language; and on average there were about two hundred and fifty complaints a year.²

Edward Ward, who observed London low life at the start of the eighteenth century, proposed a highly colourful image of the area, as:³

a stately Fabrick, before which a parcel
of Robust mortals were as busie as so many
Flies upon a Cow-Turd.

His recollections of the 'Dark-House', one of London's famous ale-houses-cum-brothel, were equally graphic. Billingsgate's taverns, like those of the East End

¹Maitland, op.cit., II, 1255. Also J. Timbs, Curiosities of London: Exhibiting the Most Rare and Remarkable Objects of Interest in the Metropolis... (1871 edn.), p.54.

²For accounts of Billingsgate women, see The Country Spy; Or, a Ramble thro' London, containing many Curious Remarks, Diverting Tales, and Merry Joaks (n.d.), p.25 and E. Ward, The London-Spy Compleat (4th edn., 1709), pp.40-41. And for Watermen's rates see Thornbury, op.cit., pp.48-9.

³Ward, op.cit., p.51.

generally, reflected the character and needs of the area. During the day, labourers, porters, and tradesmen bargained in them, away from the throng. Throughout the week, sailors and passengers drank and slept there, waiting for one of the many ferries that could take them to any part of England. The boat to Suffolk, for example, left from Dice Quay, those for York from Smart's, Custom-House, or Ralph's Quay, and the Gravesend ships from Billingsgate itself.¹

Underneath the unruly exterior, so apparent in Ward's London-Spy, lay the well-ordered structure, based on Custom and City proclamations, which made it possible for Billingsgate to claim possession of 'the greatest fish market in England'. This was promoted by the 1699 Act, to make Billingsgate a free market for the sale of fish. Regulations of work were established, and attempts made to deal with abuses by the fishmongers' cartel.² Attempts by the inhabitants of Westminster to set up a rival market in 1749 were unsuccessful, and, far from losing their grip in the eighteenth century, the London

¹R. Griffiths, A Description of the River Thames (1758), pp.264-69, gives a list of places served by boat from the London wharves.

²Anon., London and its Environs Described (1761), I, 303-4. For the 1699 Act (10 + 11 Will. III, cap.24), see C. Knight (ed.), London (revised edn., by E. Walford), p.199; and W.M. Stern, 'Fish marketing in London in the first half of the eighteenth century' in D.C. Coleman and A.H. John (eds.), Trade, Government and Economy in Pre-Industrial England (1976), pp.71-74.

trade remained firmly under the cartel's power. Billingsgate prices were recorded daily in the papers, to draw customers and retailers from all over the metropolis and the Westminster market soon closed.¹ In general, the Fishmongers' manipulations made the price of fish often too expensive for the lower orders, apart from bargains in times of glut, such as twenty-four herrings for a penny recorded in October 1750.²

Watermen's rates were set and published by the City; carmen, draymen, and others also had to work under certain constraints, within the area of the City jurisdiction.³ Of all the workers at Billingsgate, the porters were probably the most well regulated. The Billingsgate or 'Corn, Coal and Salt' Porters had their own fellowship under Aldermanic control.⁴ In their heyday, they possessed many prized rights. For example, Porters could use any wharf for access while in the exercise of their employment, they alone were allowed to assist the meters (the men

¹Ibid., p.74.

²H. Phillips, The Thames about 1750 (1951), p.44. At this date, prices per pound were: Codling 4d, Halibut 6 or 7d, Lobsters 8-12d, and Salmon 12-16d.

³Lord Mayors' Proclamations 1595-1673 (Bound Vol., British Library, n.d.); and R. Burridge, Review of London (1728), p.54, gives a table of watermen's rates.

⁴W.M. Stern, The Porters of London (1960) is the definitive work. An Act of Common Council of 1620 obliged meters to hire Billingsgate Porters (pp.92-94).

responsible for measuring the commodities on the quayside for customs purposes). Theirs was also the right to unload coal vessels from the Tyne, though by the seventeenth century this task was undertaken by a group of men collectively known as the coalheavers.

Billingsgate certainly played an important part in the coal trade though. The hithe had been granted legal status for that purpose in 1559, and trade expanded busily thereafter. After 1614, coal was allowed to be sold, either on ship, or, as was exclusively the case after mid-century, on the wharfside.¹ Originally, dockside transactions took place at the 'Roomlands' - an area large enough for the lading of bulky material - and the coal factors continued this tradition, until the construction of a new office in Lower Thames Street in 1768.² The regular 'Roomlands' venue was a muddy, exposed and crowded patch of ground on Billingsgate quayside. Samples of coal were never displayed, and buying and selling were conducted in bulk - by the ship or part ship. Consequently, this market was confined to a small number of wealthy men. But business procedure was not made easy for them. Rather than 'shoot the rapids' of London Bridge, many river passengers got off at Old Swan stairs, walked to Billingsgate and added to the congestion while waiting

¹Smith, op.cit., p.80.

²Stern, op.cit., p.110.

for a waterman. (See Illustration 2: the vivid View and Humours of Billingsgate). Porters crossed the area with their burdens, fishwives, barbers, and quack doctors provided noisy distractions, and the Coalheavers, the archetypal eighteenth-century troublemakers according to contemporaries, used the place to smoke and chat.¹ Small wonder that the Factors or Crimps, as they were then called, sought a move to a quieter environment. In 1731, it was agreed that from 8 a.m. till noon Roomlands was to be cordoned off, even to Porters and no-one was to hawk in the area during business hours.²

Abuses were not uncommon in all areas of trade and trans-shipment. A bye-law of 1708, for example, required the names of unjust coal-sellers to be posted at Billingsgate. But the City's jurisdiction was limited. An illicit market for coals that had been pilfered from the 'hags' or, more usually, the lighters, was regularly held at Execution Dock in Wapping, the home of many 'heavers, mud-larks and lumpers'.³ Most contemporaries believed

¹Smith, op.cit., p.83. And see the contemporary engraving by Vanhaeck (1736): 'The View and Humours of Billingsgate', from Guildhall Library Publications, Landmarks of the City of London in the Eighteenth Century (1976), fo.3; reproduced here as Illustration 2.

²Smith, op.cit., pp.81-82. Inside the coal trade, a 'Crimp' was the eighteenth-century term for a broker or wholesale dealer. Outside the trade, it had the sinister meaning of those involved in the impressment of seamen: ibid., p.364.

³Stern, op.cit., p.110. Also see Proclamations etc. relating to the City of London (Bound Vol., British Library, n.d.), and Lord Mayors' Proclamations, op.cit.

THE VIEW AND HUMOURS OF BILLINGSGATE



Where Great Belshazz held his Court of Old —
 Customs are now obtrusively sold —
 Where Bows were made to Ministers of State —
 As P. L. in a line of art and state —

And where the Courtier's smiling Face portended
 Treach to them who thought they were befriended.
 You may, if Prudence is your cautious guide —
 Be sure the Court is not a place of pride —

THE
 Humours of Billingsgate.
 An attempt to
 represent the
 state of the
 market in
 1736.

But Oh! beware, when you your Bows would grace,
 To run the Gauntlet of that place
 For the whole Bargaining for Bows & Shirts
 The Court is not a place of art and state —

Consider likewise when you are raised —
 In this famed Market that was once a Court:
 Our pious Court is not a place of art —
 As P. L. in a line of art and state —

this sort of dishonesty was rife everywhere. Few would have agreed with Defoe's optimistic claim that ''tis rarely to be heard, that any loss or embezzlement is made' on the wharves.¹ Actions spoke louder than words: in 1711, the Commissioners of the Excise appointed constables to prevent quayside 'pilfering'. As will be seen, this highlighted a major area for dispute between workforce and authorities that was to last for many years.

As the trade of London expanded, so did its commercial East End parishes, with their own distinctive way of life. The City authorities often feared that their jurisdiction would be ineffective over these out-parishes. They worried lest the inevitable vagrancy, overcrowding, disorder, and disease might spill over into the well-regulated city. By the eighteenth century, the riverside parishes also had, according to contemporaries, more than their fair share of the criminal elements. The crowded and often patched-up buildings acted as magnets for sailors 'in search of those land debaucheries which the sea denies 'em'. The streets were sometimes venues for vicious fighting.² John Fielding agreed that the area was indelibly stamped with the mariners' culture. From

¹Defoe, op.cit., p.313.

²Ward, op.cit., p.323. For an example of sailors' fighting in Stepney, see Annual Register, April 13, 1760.

Rotherhithe to Wapping, he noted that:¹

a man would be apt to suspect himself in another country. Their manner of living, speaking, acting, dressing and behaving, are so very peculiar to themselves. Yet, with all their oddities, they are perhaps the bravest and boldest fellows in the Universe.

But Fielding would hardly have approved all their activities. Seamen were well known as con-men, and they allegedly played a part in supplying 'those dens and resceptacles for stolen property' - the 'marine stores'.²

Certainly, the area was dedicated to the sea. Small foundries, anchor forges, rope manufactories, and alehouses lined the river. There were shops specialising in nautical equipment, yards for building, fitting, and repairing boats, and quays for ships conveying passengers to and from all parts of England and the continent. Probably as many as three-quarters of the local inhabitants owed their living to the Port. Small wonder that Judge Jeffreys, in a bid to flee incognito in 1688, disguised himself as a sailor, when he hid in the Red Cow, Wapping.³

¹Fielding, op.cit., p.xv.

²J. Pearson (pseud.), The London Charleys of the Eighteenth Century (1827). On con-men, see also J. Breues, The Fortune Hunters (1754), p.13.

³Thornbury, op.cit., II, 135. The Red Cow was near King Edward's stairs. Figures for East End occupations, come from M.J. Power, 'Shadwell: the Development of a London Suburban Community in the Seventeenth Century', London Journal, IV (1978), 35-39.

Public houses, such as that one, were more than simply drinking-, dancing-, and whore-houses for the sailors. Some provided storage in their cellars, and, like the Prospect of Whitby, had their own wharves onto the Thames to draw in custom. Others were known as a 'House of Call' for one or more trades. Many tailors, smiths, carpenters, metal-workers, plumbers, and painters obtained work by attending specific public houses as unofficial employment exchanges; and they received their wages (such as they were) on Saturday nights or Sunday mornings at the 'pay tables'.¹ The taverns therefore played a key role in the community's social and economic life,² and added initimably to the area's reputation for raffishness.

The riverside occupations, however badly paid or seasonal, attracted much immigrant labour. On the whole, riverside jobs required more muscle and sweat than formal training or expertise. Furthermore, they were not bound by the regulations of the City, yet were close to London's cheapest housing. Many of the coalheavers were Irish, and like many migrant ethnic groups, they formed their own community, which contemporaries observed with both suspicion and hostility. Indeed, all 'foreigners' living

¹See George, op.cit., pp.285-95, and Pearson, op.cit., p.48.

²P. Clark , The English Alehouse: A Social History, 1200-1800 (1983).

in the eastern parishes were associated with the criminal elements, even though this area had a dubious reputation long before their arrival. But to be Irish was a particularly heinous offence. Eighteenth-century English onlookers would have agreed almost universally with a modern historian's assessment, that the Irish were 'a police problem, a sanitary problem, a poor-law problem, and an industrial problem'.¹

Increasing population from all sources brought a continuing surge of building in the East End. Much of Wapping had been first built in the sixteen-twenties and -thirties, Shadwell in 1630s and 40s, and the Spitalfields area after the Fire in the 1670s. Growth led to the formation of new parishes. St. Paul Shadwell evolved from Stepney in 1670, and St. John Wapping from Whitechapel, itself formerly part of Stepney, in 1694. St. George's in the East, Spitalfields, Limehouse, Stratford, Bow, and Bethnal Green followed suit in the eighteenth century.² The chapel of St. John's Wapping, built in 1616 and rebuilt

¹George, *op.cit.*, p.125. There is still no adequate work on immigration to London. P. Clark, 'Migration in England during the late Seventeenth and Early Eighteenth Centuries, Past and Present, no.83 (1979), 57-90, shows only the tip of the iceberg.

²Thornbury, *op.cit.*, pp.137-42. For the growth of London's East End in the seventeenth century, see Power, *op.cit.*, pp.29-33; and idem, 'East London Housing in the Seventeenth Century', in P. Clark and P. Slack (eds.), *Crisis and Order in English Towns, 1500-1700: Essays in Urban History* (1972), pp.238-42.

1756, and its environs came to typify the huddle and raffish delapidation of the area. An exasperated James Malcolm, who visited the area in the early nineteenth century, claimed that even the best streets were:¹

so narrow, so wet, so badly paved, so despicably parsimonious, that the passenger hardly dare lift his eyes to the intermixed mansions... lest he should honour them with unintentional prostration.

Other streets and alleys were no more inviting. Even St. Catherine's, on the western confines of the East End, was described by Pastor Moritz in 1782 as 'one of the most execrable holes in all this great city'.²

Another visitor to London in the 1780s, after much of the development between the City and Westminster had been completed, clearly saw the East End as the poor relation:³

The contrast between [the East End] and the western parts of the metropolis is astonishing, the houses there are almost all new, and of excellent construction; the squares are magnificent; the streets are built in straight lines, and perfectly well lighted: no city in Europe is better paved. If London were equally well built, no place in the world would be comparable to it.

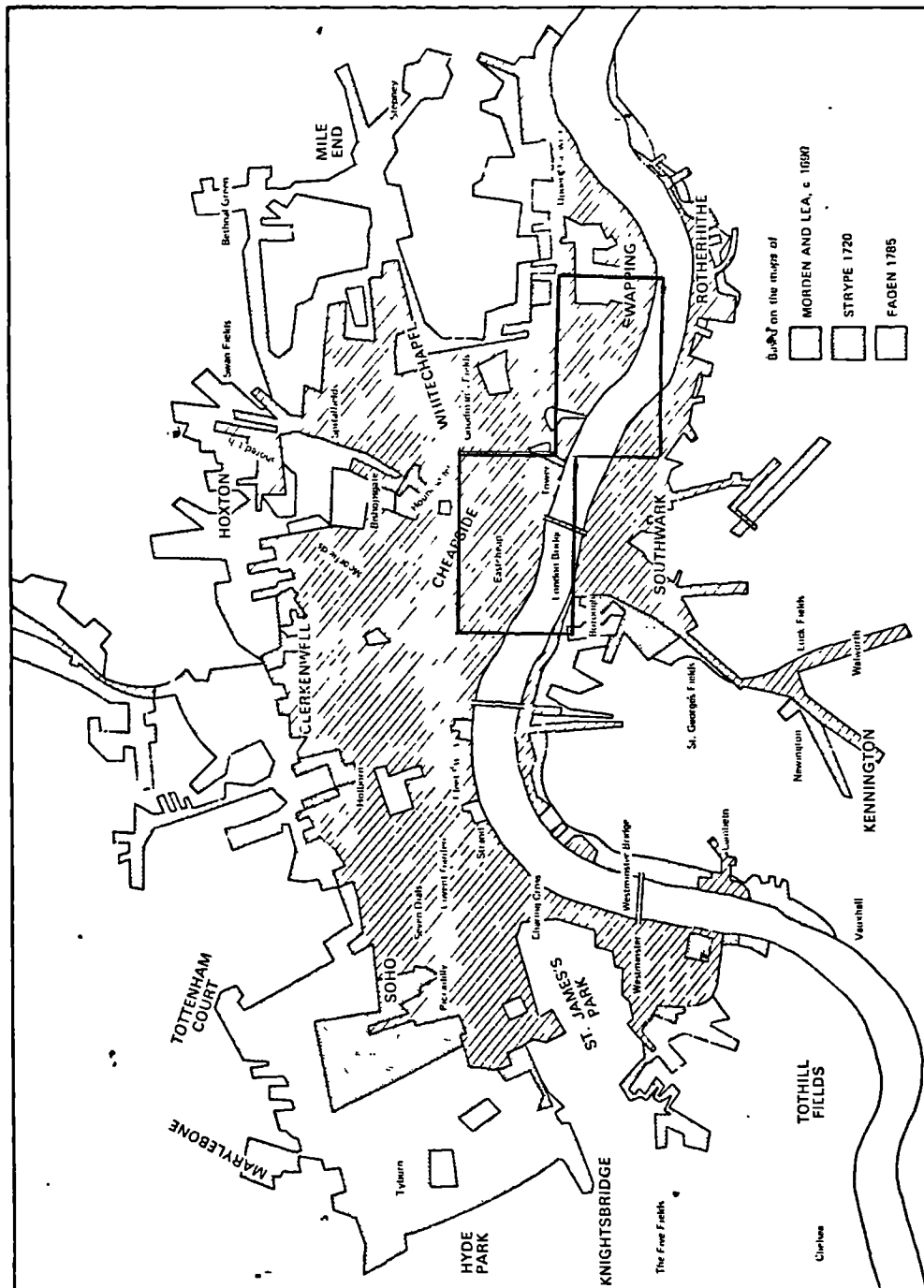
¹The cost of the chapel was £1,600: Strype, op.cit., IV, 37-38. See also, J.P. Malcolm, Londinium Redivivum; Or, an Ancient History and Modern Description of London, Compiled from Parochial Records, Archives of various Foundations, the Harleian M.S.S., and Other Authentic Sources (1807), IV, 9. Phillips, op.cit., p.28, summed it all up as 'romantic old Wapping' but it is doubtful if many contemporaries would have recognized this description.

²For Pastor Moritz's views on the East End, see Wilson, op.cit., p.120.

³M. D'Archenholz, A Picture of England (1789), I, 122.

Yet if all London had been 'equally well built', the labour force, who made many of the West End luxuries possible, could not have afforded to live. (See Map 2 for the scale of metropolitan London by the later eighteenth century). The East End became what it was not simply through accidents of history, but also in response to the needs of London as a whole.¹ With it the growth of trade that transformed London into a major European capital became possible.

¹For similar comment on the relationship of St. Giles's rookeries to the West End, see Corfield, op.cit., pp.78-9.



MAP 2. Late Eighteenth-Century London, showing Dockside Parishes.

CHAPTER 2

PILFERERS AND BRIDEWELL

Among the many problems on the waterfront the most nagging and ubiquitous was the problem of pilfering.¹ The legal system provides some crucial evidence, but refers only, of course, to cases that fell into the legal net. There is no way that historians can establish precisely how much theft there was on the docks. That applies particularly to pilfering, which was characteristically (if not invariably) 'petty' and difficult to identify. It was famously estimated by Patrick Colquhoun that 90% of crime went undetected or unreported;² and such an assessment certainly seems plausible. Furthermore, even for those apprehended, the paucity of gaol lists and Justices' notebooks in the eighteenth century means that calculations for the scale even of known crimes have to remain impressionistic. It seems that, in many instances, the

¹Pilfering, according to the Oxford English Dictionary (1909 edn.), can be pillaging, plundering, or robbery; but often refers to stealing or thieving 'in small quantities'. To pilfer, by the same token, is to commit petty theft, and pilferage, apart from being the product of pilfering or stolen goods, is also petty theft.

²P. Colquhoun, A Treatise on the Police of the Metropolis; Containing a Detail of the Various Crimes and Misdemeanours by which Public and Private Property and Security are, at Present, Injured and Endangered: and Suggesting Remedies for their Prevention (3rd edn. 1796), p.31. (This work is hereafter cited as Police).

records of petty offenders, who were either released, fined, put in the pillory, or sent to the House of Correction under summary jurisdiction, either no longer exist or never existed in the first place. The eighteenth-century judicial system was very unsystematic and ad hoc, and much minor business was dispatched without formal record.

In the case of London, however, sufficient sources (with all their imperfections) have survived to throw light on the system, its complexities, and its evidence for dockside crime. The distinctions were very rough-and-ready, but it seems that minor cases were dealt with by summary jurisdiction, (the subject of this chapter), while more serious or intractable ones were sent for formal trial before the majesty of Old Bailey (for which, see Chapter 3).

It had become the custom in the later Middle Ages for the Mayor to act as first arbiter in all the civil and criminal cases brought before him. The first reference to this was recorded in the Great Chronicle of London,¹

¹Corporation of London Record Office (subsequently C.L.R.O.), Research Papers, Box 5.19: P.E. Jones, 'The City Justices and Justice Rooms: Historical Notes on the Appointment of Justices, the Administration of Justice, and the Origin of the Guildhall and Mansion House Justice Rooms, and their Subsequent History' (1956), p.2.

which implied that by the sixteenth century the pressure on this method of obtaining swift justice was so great that Sir John Shaa (Mayor in 1501) held a court every afternoon. Proceedings in these Courts were summarised in the attornies' Waiting Books - so called because each attorney waited on the Mayor a week at a time. In content they bore a close, if untidy, resemblance to the Mansion House Charge Books, with which they were duplicated intermittently during the last third of the seventeenth century, until 1706.¹ The only volume of either series that has survived from the later eighteenth century is the Mayoral Charge Book for 1728-33.² With earlier records, that does, however, provide an introduction to the day-to-day business of processing criminal cases.

Summary jurisdiction in the eighteenth century was a two-edged sword. On the one hand, it was a swift and efficient way of dispensing justice; on the other it was felt by some, including Blackstone, to contravene the essence of constitutional liberties. In 1773, he warned that 'it has of late been so far extended, as

¹See C.L.R.O., 235E: The Lord Mayors' Waiting Books; and 236D: Mansion House Justice Room Charge Books (the name is given to the entire series of documentation, including the years before the formal building of a Mansion House for the Lord Mayor in 1734). The former records are commonly known as the Waiting Books, the latter as the Charge Books, and are so referred to in this study. For explanatory notes on these sources, see Jones, op.cit., pp.1-3.

²C.L.R.O., Charge Book (1728-33).

(if a check be not timely given) to threaten the disuse of our admirable and truly English trial by jury'.¹

Blackstone was maintaining a popular eighteenth century ideal, yet he was out of step with much judicial development. Justices' powers were based largely on seventeenth- and early eighteenth-century statutes, which allowed them to deal with vagrants and other rogues and vagabonds, by summary conviction to a spell in the local House of Correction.² Blackstone's concern about having so much power concentrated in the hands of one man, and the possible results for the innocent, was understandable. Allegations of corrupt practices by 'trading justices' were not altogether unfounded. Yet, if anything, legislation allowing the short-term committal of petty offenders - including common swearers, drunkards, vagrants, idlers, and prostitutes, as well as pilferers, worked in favour of those who fell into these categories, if the short, sharp shock of the House of Correction was considered preferable to the length and terror of an Old Bailey trial.

¹W. Blackstone, Commentaries on the Laws of England (5th edn., 1773), IV, 281. Acts which extended the summary powers of Justices considerably in the eighteenth century were 12 Anne, cap.23 (1714), 13 Geo. II, cap.24 (1740), and 6 Geo. I cap.19 (1720).

²Acts that specified and developed Justices' powers of summary jurisdiction over petty offenders included 1 James I, cap.4 (1603), 17 Geo. II, cap.5 (1744) and 23 Geo. III, cap.88 (1783). See also: J.H. Baker, An Introduction to English Legal History (1972), pp.418-19.

The surviving London Charge Books for 1695-1706 and 1728-33 clearly show that successive Lord Mayors tended to observe the spirit rather than the letter of the law. They often used the summary legislation to keep minor offenders away from hard-line criminals. Between 1695-1706, in the sixty-five cases, where the word 'pilfering' was used to define the crime,¹ sixty ended up by being sent to the City of London's House of Correction, known as the Bridewell. The reasons for these decisions were not, however, indicated; whether they included the inconsiderable nature of the theft in the Mayor's eyes, the reluctance of the aggrieved to prosecute by indictment for a minor offence (though there are no clues about this) or the reputation of the accused. Thus, Charles Cooper, who broke the head of a hogshead of tobacco on the keys in August 1697 and was 'known to be a notorious pilfering fellow', was committed to hard labour in the Bridewell, though whether he had stolen anything on this occasion was not even mentioned.² Similarly, Shadrack

¹The use of this term, or close equivalent, has been used throughout to identify dockside cases.

²C.L.R.O. Charge Book (1695-99), 22 August 1697. Cooper's case is one of the few examples that can be traced through two sets of records. The Bridewell Court Minutes for 27 August 1697 show that Charles Cooper was presented before that Court, accused of breaking the head of a hogshead of tobacco 'with intent to steal ye goods'. As sentence there, he was 'listed to serve ye King'.

I was fortunate in being able to view the Minutes of the Court of Governors of the London Bridewell, at the Bethlem Royal Hospital Archive, Monks Orchard Road, Beckenham, Kent. This source is subsequently referred to as the Court Minutes. (These records are available on microfilm.)

Blake and Humphrey Pratt were committed to the Bridewell on 21 June 1701, charged simply with 'being common vagrants... upon the Custom House Keyes... unable to give a good account of themselves'.¹

Offenders, named in the Charge Books, can be categorised both by frequency of offence, and by sex and sometimes by age: not surprisingly, virtually all dockside cases of pilfering involved men, and only a few were indicated as involving very young culprits. But the record was usually very unspecific both about what was actually stolen and its value. On 31 May 1731, Atkins Moore brought one Samuel Kaysley before the Mayor, for pilfering 'a small quantity of oyl of small value' off the Keys, but it was probably the accused's attitude and reputation, which accounted for his subsequent identification as a 'loose, idle, and disorderly person', and led to his committal to the Bridewell.² Conversely, William Ranton was probably lucky to be committed to the Bridewell in November 1700, as it was specifically reported that he had taken a piece of logwood valued at 2/6d from Wiggin's Key.³ Many other offenders, in cases where values were

¹C.L.R.O. Charge Book (1699-1705), 21 June 1701.

²Ibid. (1728-33), 31 May 1731. This is another case that can be cross-checked with Bridewell records: the Court Minutes for 3 June 1731 list Samuel Kaysley as being punished and discharged.

³C.L.R.O. Charge Book (1699-1705), 9 Nov. 1700.

noted (of which some examples can be traced for the period 1728-33), eventually found themselves in Newgate awaiting trial at the Old Bailey.

During the period 1728-33, a total of 32 men and women were listed in the Charge Books, as accused of varieties of dockside theft, although the details recorded for each case were scanty. There were only five Mayors during that time, all of whom had to exercise subjective judgement in the treatment of offenders. The mayoralty of Humphrey Parsons (Nov. 1730-Nov. 1731) showed one permutation: of the twelve people brought before him, eleven were recorded as having committed 'pilfering' offences. Two were discharged - one because he was repentant, the other because of lack of evidence - and nine others all received the verdict of summary jurisdiction with a spell in Bridewell.¹

There was scope for flexibility, both in the attitudes of the magistrates, and those who brought the offenders to court. Charles Holmes, for instance, brought before the Mayor for pilfering tobacco on 25 November 1731, was discharged at the request of Thomas Pitt, the very

¹Ibid. (1728-33). The dates of these dozen cases were 12 Nov. 1730, 13 Nov. 1730, two on 22-23 Nov. 1730, 21 Dec. 1730, 5 Jan. 1731, 6 Jan. 1731, 19 March 1731, 21 May 1731, 15 June 1731, 28 Sept. 1731, and 25 Nov. 1731.

man who had apprehended him.¹ No reason was given, whether Pitt was uncertain about the incident, felt that Holmes had, by that time, suffered enough, or, having had time to reflect, considered that the crime did not warrant the probable punishment. Certainly, at this stage in the legal system, procedure was highly variable, the essence being speed of decision. The patchiness of the surviving record means that no statistical conclusions can be drawn from these sources. However, they show something of the nature of the initial stages in the judicial system; and they can be complemented by the highly important records of the London Bridewell itself.²

The Bridewell, or House of Correction, had been initially a royal Palace, albeit controversially located. Sited in Tudor Street, close to the Fleet Ditch, its access was described in 1582³ as 'throughe stincking lanes or

¹Ibid. (1728-33), 25 Nov. 1731. On the flexibility of the Lord Mayor in a parallel role - as arbiter in poor-law business - see S. Macfarlane, 'Social Policy and the Poor in the Later Seventeenth Century', in A.L. Beier and R. Finlay (eds.), London 1500-1700: The Making of the Metropolis (1986), pp.255-6.

²Court Minutes, passim. Cases brought before the Bridewell Court were those from the traditional area under jurisdiction of the City of London. These cases do not therefore cover the entire dockside community of London.

³W. Lempriere (ed.), John Howes' M.S., 1582: Being 'A Brief Note of the... First Erection of' the Three Royal Hospitals of Christ, Bridewell, and St. Thomas the Apostle (1904), p.54. See also Gentleman's Magazine, XXIII (1753), p.74. for a description in a similar vein.

over a fylthy dytche'. Henry VIII's decision to abandon the Palace was therefore perhaps not surprising, and, after a period of use as an embassy, the buildings were simply granted to the City of London. A royal charter of 1553 had stipulated that it be used as a hospital, but gave the governors immense authority. They were also authorised to appoint beadles to bring in 'vagrants and idle persons' found anywhere in the City, to order inmates to undertake 'good and profitable occupations', and to inflict punishment at their discretion.¹ From the start, therefore, it had a multiple role as hospital, workhouse, and prison.

It became a prototype for numerous provincial Bridewells, notably in East Anglia from the 1570s onwards, but provincial magistrates, unlike the President of the London Bridewell, had to be in the company of a colleague to pass sentence. An Act of 1610 obliged negligent magistrates (on pain of fine) to set the Bridewell inmates to work, and, for the first time, punitive measures were also detailed. Suitable punishments including 'putting fetters or gives [shackles] upon them' and a 'moderate

¹On the early history and purpose of the Bridewell, see London Corporation, Order Appointed to be Executed in the Cittie of London for Setting Roges and Idle Persons to Worke and for Releef of the Poore (1587; reprinted, 1793); and L.W. Cowie, 'Bridewell', History Today, XXIII (1973), pp.350-57. See also G. Salgado, The Elizabethan Underworld (1977), pp.185-88, on the purposes of correction.

whipping of them'.¹ Indeed, the London Bridewell had, in fact, meted out this type of treatment since its genesis and not only to residents.² Most offenders however were committed for a short spell of incarceration, 'and being so committed', wrote Strype in 1720, 'are forced to beat hemp in public view, with due correction of whipping, according to their offence, for such a time as the President and Court shall see cause; the Court being generally every Friday in the Forenoon'.³

Not surprisingly, as one of the top three spectacles to be seen in London (the others being the Bedlam lunatics and a Tyburn hanging), the proceedings did not escape the attention of the Grub Street writers. Ned Ward pursued his interest in Low Life into the Bridewell, adding that he originally went for the 'diversion of seeing the lechery of some town ladies cooled by a cat-of-nine-tails'.⁴ Other visitors doubted that the reformatory functions of the Bridewell were really efficacious. Jonas Hanway in 1772 questioned the

¹See 7 James I, cap.4 (1610), Clause IV.

²In its early days, it was not unheard of for petty offenders to be sent there solely for the purpose of receiving corporal punishment: see, F.O. Martin, Bridewell and Bethlem Hospitals: Charity Commissioners' Report (June 1837), p.400.

³John Strype, as cited in Cowie, op.cit., p.356.

⁴Ward, op.cit., pp.141-43. Some constables particularly interested in reform or connected with societies for the reformation of manners were determined to act against certain offenders such as prostitutes. See Emsley, op.cit., pp.24 and 135.

propriety of 'entertaining under the same roof, criminals to be corrected and youths to be educated in industry'.¹ The first-hand experience of one William Fuller, a political prisoner was not enthusiastic. He described the Bridewell as 'a place of entertainment for the worst of villains, amongst whom I was unhappily rank'd'.² Henry Fielding in his famous Enquiry claimed that, of all the offenders brought before him as Bow Street magistrate, 'the most impudent and flagitious... have always been such as have been before acquainted with the Discipline of the Bridewell.'³ He added that, while it created lamentation in the novice, it was treated with 'Ridicule and Contempt' by old offenders.

It was to this institution that many petty pilferers from the dockside were sent. Here the Bridewell records prove an invaluable source.⁴ A survey has therefore

¹On Hanway, see E.G. O'Donoghue, Bridewell Hospital: Palace, Prison, Schools (1923) II, 212-13.

²See W. Fuller, Mr. William Fuller's Trip to Bridewell, with a True Account of his Barbarous Usage in the Pillory; The Characters of the Several People, who came to see him beat Hemp, and Discours'd with him; His Repentance for Offences past; The Discovery of the Whiggs that Employ'd him, Together with his Reception in the Queen's Bench (1703), for the prisoner's eye-view of the Bridewell. It includes information on the president, prison accommodation, and Court procedure. Fuller had been imprisoned apparently for publishing a seditious pamphlet.

³H. Fielding, An Enquiry into the Causes of the Late Increase of Robbers... (1751), p.64.

⁴These sources were unavailable for scholarly inspection for many years. Before the series were partially placed on microfilm, they were last used in their entirety by O'Donoghue, op.cit., for a very generalised survey.

been undertaken of all such pilfering cases, for the period 1696 to 1773. However, before assessing the significance of this evidence, it is necessary to review the Bridewell documentation as a whole, since the pilfering cases have to be interpreted in full context. Here again, as with the Charge Books, the records are complex and patchy.

Either by design or by accident, the Minutes of the Court of Governors provide an incomplete record of the judicial proceedings at the Bridewell. The regularity hinted at by John Strype in 1720, when he claimed that sessions were 'generally every Friday in the Forenoon'¹ is not shown in the minutes for that year, which recorded only nine meetings, or for the year 1719, which recorded only six. Nor were these freak years in this respect; between 1719 and 1780 there were more than ten Courts a year on only 5 occasions, and in the peak year of 1741, when there were thirteen, four were for purely administrative purposes.²

Certainly, in the later seventeenth century, the figures were somewhat closer to Strype's estimate. Between 1697

¹Cowie, op.cit., p.356.

²Some of these administrative courts dealt with subjects such as apprentices, estates belonging to the Bridewell, and annual elections. Interestingly, later in the eighteenth century, many courts dealt with reforming the Bridewell itself. See Court Minutes, passim.

and 1702, the average number of recorded sessions per annum was twenty-two. However, the frequency of Courts (as shown in the minutes) declined progressively during the eighteenth century, to an average of about six per annum, for the corresponding period 70 years later.

This may have stemmed from a change, or even laxity, in administrative practice. It is notable that the first real signs of decline set in during the final year of the magistracy of Sir Robert Geoffrey (1703-4), whose zealous application of his authority as President had made him renowned among petty offenders in previous years.¹ A relatively less tenacious approach by the three men, who succeeded to the post in the next five years, ensued - including a slump to eleven Courts during the year 1705-6, which may have been affected by the appointment of a new clerk in 1706.² At the same time, the numbers tried in each Court also fell, from an average of 21 in the period 1699-1702, to 11 between 1703-6.

Furthermore, from the early eighteenth century, the practice developed both of regularly holding fewer Courts, and of randomly omitting to keep minutes altogether.³

¹For a contemporary's comment, see Fuller, op.cit., pp.8-9.

²From 1706-1709, only the most basic details are given for many courts, sometimes only names and verdicts: see Court Minutes, passim.

³There is scope for further work on the intricacies of these records. Much seems to have depended upon the efficiency or otherwise of the Clerk as record-keeper, but there may have been other factors at work.

That this was happening becomes apparent from 1741 onwards, when the practice of numbering the inmate prisoners was instituted. For instance, there were no records of a Court in session in the twelve weeks between 24 October 1753 and 16 January 1754. Yet, in that time, 44 prisoners, who are lost to the historian, were, according to the clerk's calculations,¹ dispatched - and it would seem most unlikely that they had all secured release, without formal proceedings or punishment. Between 1741 and 1752, there were, however, few such gaps in the enumeration of prisoners, indicating the value of the minutes for this period in particular. They show that then, in an average year after 1741, the full complement of sessions should be nine, or ten including the electoral court (annual meeting). On that basis, the minutes for the period 1753-80 provide a stark contrast, being much less reliable and approaching fullness only in the years 1762 and 1777.

In terms of analysing seasonal and annual fluctuations in the record, it should be noted that, until the early 1760s, entries were made according to the fiscal year (i.e. April-March). Thereafter, they were normally listed by calendar year. Absences from the record mean

¹Thus, Court Minutes, 24 Oct. 1753, recorded the last defendant as number 103, while Court Minutes, 16 Jan. 1754 recorded the first defendant as number 148.

that data are not fully conclusive, but these sources suggest that cases of petty dockside crime were much more numerous in winter than in summer months; but that, of course, also was influenced by the zeal of those detecting as well as those committing crimes.¹

The style of the Bridewell Court Minutes was similar to the Waiting Books and Mansion House Charge Books, in giving only the most basic details about the offences and judgement, although sometimes even those were obscured by the idiosyncracies of the clerks. About the offenders, very little concrete information was given apart from their name. Very occasionally, a prisoner is specified as a boy or girl, but (unlike some Old Bailey cases) exact ages were never given, so that the effect of youth on punishment cannot be deciphered. The offender's name was followed normally, but not invariably, by that of the magistrate and of the person (often a constable) upon whose oath the prisoner had been committed.

Charges themselves were enormously varied, both in detail and terminology, being particularly vague when people were brought in merely for suspicious behaviour. For instance, no specific charge was made against one Edward Ward, who was accused in March 1746 of being a 'loose,

¹See further discussion below, pp. 102-120.

idle, and disorderly person, having no visible means of living'.¹ Cases such as these cannot therefore be given detailed classification by the historian, even though the fact that Ward was arrested by Jeremiah Mascall, a celebrated constable of the Custom House Key, provides a strong indicator of the whereabouts and nature of the offence. Yet, since Mascall usually gave the location of the offence in 116 out of the 123 prisoners he presented in the period 1740-59, Ward's case has to be left as uncertain. Consequently, this and similarly imprecise charges, have not been tallied with the dockside offences. On the other hand, a presentation like that of James Clarke, simply accused of being a 'common pilferer at the Keys',² can be clearly accepted as ^a dockside case .

A majority of entries in the Bridewell Court Minutes were, however, precise. Almost always, they named the commodity stolen, although in common with the Lord Mayor's records the description of the crime was normally confined to the word 'pilfered' and the value of the goods simply noted as 'small'. On the few occasions, when details were proffered, the value or weight of goods was usually high enough to warrant indictable proceedings, rather than summary judgements. Indeed, it is important to

¹Court Minutes, 7 March 1746.

²Court Minutes, 17 May 1745.

remember that the Bridewell could function as a 'staging-post' for offenders, awaiting dispatch to Newgate.¹

Care must be taken to avoid reading too much into what might simply be the idiosyncracies or habits of the Bridewell clerks. Many theft charges, for instance, in the late 1690s incorporated the word 'feloniously', a term suggesting an indictable offence, while in the mid-1730s 'imbezzling' was the term in vogue. By that time, the descriptive phrase, 'disorderly person', was seldom used but its sporadic reappearance could allude to some degree of resistance at arrest or recalcitrance before the magistrate.² However, in general, the entries in the minutes are extremely terse, and give little contextual information. A very standard form of entry for dockside pilfering was that given in December 1742, for one James George, who was described as 'being a loose, idle, disorderly person, constantly idling and loitering at the Custom House Keys'.³ Other references, such as 'they being a vagabond idle person', 'being a known idle

¹Those who made the journey to Newgate (for all sorts of crime) can be identified, as their punishment was listed as being 'sent to Newgate'. Conversely, some made the return journey. One William Mays, who gave evidence at the Old Bailey, was finally returned to Bridewell and discharged: Court Minutes, 30 April 1746. For more on William Mays, see below, p. 117.

²See Court Minutes, 28 Jan. 1736, for an example of this usage.

³Court Minutes, 9 Dec. 1742.

person', or claiming that a prisoner made offending 'a frequent practice', indicated that a previous bad character could form a substantial part of the charge. The newly appointed clerk in 1706 briefly distinguished between first and old offenders, suggesting that this differentiation had an influence upon the severity of the sentence.¹

With so many weeks between sessions (an average of six in mid-century when the records are reasonably good), another factor affecting judgement must have been the length of incarceration suffered by the accused before a Court appearance. From February 1752 for a period of almost ten years, the date of the offence was regularly recorded and, before that, particularly in the 1740s, it was mentioned in general terms such as 'yesterday' or 'this morning'. However, the exact times of offence were rarely given.² With all these permutations it has nonetheless been possible to identify a total of 592 dockside cases, in the years 1696 to 1770. The terminology that has been of central importance in establishing the existence of dockside prosecutions has, of course, been geographical. The period 1705-09 saw no shortage of prisoners. But no dockside cases were discernible, because

¹Court Minutes for 1706 only. The minutes for much of 1707-8 degenerated simply into lists of names and punishments.

²The printed proceedings of Old Bailey trials (for which see p. 88, below) quite frequently give information about the precise time of offences, but the Bridewell records were much more laconic.

the court records gave little more than a list of names and verdicts, making categorisation impossible. Even for periods when other details are given in full (for example before 1697), locational clues to the whereabouts of any offence were most uncommon; and, unfortunately, for precisely that reason, the Court Minutes after 1773 become virtually useless for these calculations. The period with the most information on the geography of crime was that when the Court records were themselves best maintained: the 1740s and early 1750s. Then, the usual phrase "off the keys" was frequently supplanted by the specific names of the wharves. This may have reflected the large totals of dockside prosecutions at this time, which in the peak year of 1745 formed fully one third of all recorded offenders consigned to the Bridewell.¹ The fluctuations in the number of cases, and specifically of those relating to dockside offences, are clearly shown in Table 3.

Detailed study of these 592 dockyard cases provide new insights in legal procedures, offences, and punishments. For example, until 1741, three senior Aldermen, the present and past Lord Mayors (and since 1692 up to another six Aldermen, provided they had served the Office of Sheriff) were all constituted as J.Ps for the City of London

¹Detailed discussion of fluctuations in the number of dockside cases is given below, pp. 120-134.

TABLE 3. PRISONERS BEFORE THE LONDON BRIDEWELL COURT,
1696-1770 (5 year totals).

	Total of accused, from surviving records	Total of accused, as enumerated by the Court after 1742 ¹	Total accused of dockside offences ²
1696-1700	2494		32
1701-1705	1221		23
1706-1710	995		1
1711-1715	731		11
1716-1720	516		3
1721-1725	459		5
1726-1730	489		14
1731-1735	651		55
1736-1740	564		84
1741-1745	680		165
1746-1750	658	997	110
1751-1755	445	994	55
1756-1760	209	540	9
1761-1765	638	1548	9
1766-1770	291	1444 ³	16

SOURCE: Bridewell Court Minutes, 1696-1770 .

- Notes:
1. Numbers were allocated by the Court from 1742 onwards, although often details of the cases have not survived.
 2. Identified from internal evidence in case reports.
 3. 4 years only.

and were therefore vested with the summary powers to consign petty offenders to the Bridewell.¹ In practice, however, most warrants during this period were issued by one person - normally the President, although some years were dominated by the Lord Mayor or other zealous magistrates. In the early 1720s, it would seem that Francis Forbes, a former treasurer of the Bridewell, held a de facto monopoly on the issue of warrants for all types of cases; and the same could be said of Richard Brocas, a quondam Lord Mayor, who between 1731 and 1737 accounted for more than 90% of all Bridewell committals that related to dockside cases.²

Little is known as to how the alleged culprits were brought forward for sentencing. The role of the special Bridewell Beadles in enacting the general privy search (which according to an order of 1651 was to be carried out daily to clear the streets of petty criminals) would certainly have helped;³ but it is not clear how rigorously

¹Jones, op.cit., p.3.

²This is an approximate estimate. Brocas was extremely active in committal proceedings from 1731 onwards, to 1737: see Court Minutes.

³See Martin, op.cit., p.401. The idea of a general privy search was suggested as early as 1552: see A Supplication... for the Obtaining of the House of Bridewell (1552, reprinted 1807), p.18. The constabulary were not left completely to their own devices on these occasions; 'public opinion' was expressed through the presentments of Grand Juries and often a particular offence or nuisance would be mentioned: see for example, C.L.R.O. Sessions Papers, 1+3 April 1706. For details of this source, see below, Chapter 3.

this was carried out in the eighteenth century. Cases were brought forward also as a result of private prosecutions, but mostly through the initiative of special dockside constables. Between 1696 and 1772, fully 80-90% of all dockside cases before the Bridewell Courts were brought by, or involved, a constable. Indeed, that was hardly surprising. The 'constables on the Quays' were well practised in cooperating with each other to secure both arrests and prosecutions.¹ In addition, backed by the Inspector of Prosecutions at the Customs House, they had a financial incentive to carry a case through to its conclusion, so that even if they did not witness an offence the person who did would be encouraged to appear in court.² Consequently, many such pilferers were committed to Bridewell, on the oath of two people - the witness and officer - although, as Constable John Crosier found to his cost in December 1741,³ a successful prosecution relied on the presence of the material witness - the constable's oath on its own was insufficient.

¹For discussion of 'detection' generally, see below Chapter 4. J. Innes, 'English Houses of Correction and "Labour Discipline", c.1600-1780: A Critical Examination' (Unpub. Paper for Conference on the History of Law, Labour and Crime, University of Warwick, Sept. 1983), p.49, has suggested that in other areas of London, away from the busy waterfront and its constabulary, a larger proportion of the commitments was brought by private citizens.

²Phillips, op.cit., pp.41-2. The Inspector of Prosecutions was not paid but got a 5% commission on all fines and other monies, paid by his department into the Exchequer.

³Court Minutes, 23 Dec. 1741. There were two constables named Crosier, John and Joseph; see Court Minutes, 25 March 1743, and below, p. 172.

Sometimes, the presence of an officer was only recorded in passing, as on one occasion when the Court clerk's comment that the constable 'appeared but not on his oath' is noted in the margin.¹

Cases were probably dealt with very quickly. The ultimate aid to the presiding magistrate was, of course, the oath of the prisoner himself (or herself) although the Bridewell records often imply that this was a very rare occurrence. However, the fact that in the relatively well-reported period of 1740-50 there were more reported confessions suggests that they may have been more common, but not registered because they were felt to be secondary to the oath of the prosecutor.

Not unnaturally, the list of dockside charges proved very informative about the nature of the offences - the goods stolen, the whereabouts of offences, and even (though rarely) methods used by criminals - and this despite often excluding all but the most basic information. These were essentially petty cases, and the relative monotony of the crimes is notable - in contrast to the more variegated case-histories that came before the Old Bailey. Tobacco- and sugar-pilfering accounted for almost 80% of cases studied between 1725 and 1760, with fish,

¹Court Minutes, 18 July 1750.

coal, raisins, pieces of wood, and other perishable goods making up much of the rest.¹

The fact that all these goods could be consumed or disposed of easily helps to confirm the impression that much of this crime was casual or borne of immediate necessity, rather than organised on a large scale. It suggests that stealing tobacco and sugar was easy as well as desirable (partly because it could be readily disposed of via secondary agents), and that it was also relatively easy to catch people stealing these items, that the constabulary were mainly employed to protect these items, and that these items were more plentiful than any other in the areas that were patrolled. A combination of these suggestions does not seem unreasonable: tobacco and sugar could easily be extracted from a hogshead (particularly one that was already damaged) and concealing the booty posed few problems.

Valuable accessories to this kind of pilfering were indicated as a porter's apron, a bulky overcoat, or a large handkerchief; or a thief could stuff the goods into capacious trousers, a practice that was referred

¹See below, Chapters 3 and 5. Tobacco and sugar were, according to the Old Bailey Sessions Papers, also the most popular items as well, but other goods, such as camel hair and even elephants' teeth, were obviously valuable items, whose theft was bound to lead to an indictment, if the culprits were apprehended.

to in the Old Bailey records from the 1740s onwards.¹ The fact that there were so many apprehensions for these items hints at an intersection between three different interest groups: the Customs, to whom they were large dutiable items, the merchants, for whom it was valuable stock, and the porters and gangsmen, for whom it was a perquisite to which they alone had claim.² Hence the prevalence in the Bridewell cases of recalcitrants classed not simply as pilferers, but as 'loose, idle vagrants', 'vagabond, idle persons' (implying they were not part of the regular work force) or 'old offenders'. There were, however, many variations - sometimes even between different wharves in different years. In 1738, for example, most cases were for pilfering on the Customs House Quay, while between 1746 (January) and 1751 (February) no cases were brought for that area.

Once presented and summarily charged, the culprits faced immediate verdict and sentence. The Court Minutes, again, despite their terse entries, were also revealing on this subject - illustrating well the diversity of verdicts. The most favourable result was an absolute discharge, without the obligation to pay any of the legal

¹Unlike the Old Bailey records, the Bridewell Court Minutes were relatively reticent about such details, but for one example, see Court Minutes, 12 March 1742, the case of John Blanchflower. Detailed information is considered in Chapter 5.

²See full discussion in Chapter 5, below.

fees. This, when granted, implied the innocence of the prisoner, and the financial element acted as some compensation. Far more common was an ordinary discharge, which, according to Ned Ward,¹ did not guarantee freedom until all fees were paid. As all legal actions were expensive and the alleged criminals were often very poor, that created an injustice that he denounced as 'a shame to our laws, an unhappiness to our nation, and a scandal to Christianity'.² That surely helps to explain why some prisoners described as pilferers (but not 'vagabonds' or 'incorrigible rogues', for whom sentences were longer) spent more than one month, stipulated by legislation in 1744,³ at the Bridewell.

Whether incarceration before appearance in Court influenced the severity of the sentence is only discernible for the period 1752-1761. As a general rule, prisoners of less than 7-10 days standing, who were found guilty, were made to continue at labour, while those who had suffered longer were discharged normally without - but sometimes with - punishment, meaning whipping. The records of 1706 onwards which differentiate between

¹Ward, op.cit., p.139. See also the declaration at the end of the Court Minutes for 15 Nov. 1695, which confirmed that prisoners were to be retained at labour until they have earned enough to pay their fees.

²Ward, op.cit., p.139.

³See 17 Geo. II, cap.5 (1744).

'first' and 'old offenders' strongly suggest that the recipients of physical punishment were mainly habitual offenders. The prisoner's response to 'correction' could also determine his fate. Punishment for the indolent was that they should 'continue to labour' and 'eat no more than they earn' - a common sentence in the early eighteenth century.¹ But, without detailed accounts of the Court proceedings, it is difficult to know why punishments were meted out exactly as they were. Much depended upon the interaction of magistrates' tempers, prisoners' demeanour, and the strength or otherwise of the case against them. It was rare for pilferers to find powerful friends, but on at least one occasion (not, however, a dockside case) in 1726, a master attended to request the discharge of his servant.²

More rarely, there were unusual and ad hoc punishments. During times of war, young (presumably unattached) men were sent into the King's service (a device that was also used at the Old Bailey in lieu of transportation).³

¹Whether this punishment continued into the later eighteenth century is impossible to tell from the records, which give only sparse details on punishments after c.1720.

²Court Minutes, 24 Nov. 1726.

³On the enlistment of criminals during times of war see Radzinowicz, op.cit., IV, 79, and T.R. Forbes, 'A Study of Old Bailey Sentences between 1729 and 1800', Guildhall Studies in London History, IV (1981), p.29. Beattie, Crime and the Courts, pp.220-1, suggests that enlistment could have been agreed upon in front of a magistrate in order to avoid trial proceedings.

Young orphans were more likely to be made apprentices, or, in the later 1750s, be admitted to the Marine Society.¹ There were special sentences, too, for the unfit. One dockside pilferer, John Satchwell, who not surprisingly was caught with monotonous regularity during 1738-42, was finally sent to St. Thomas's 'to be cured of his sore legs'.² Meanwhile, foreigners found themselves sentenced to deportation to their homeland, and some non-Londoners may have been escorted back to their parish,³ although the Court Minutes did not specifically document this practice.

All in all, therefore, the Bridewell records document a diversity of petty offenders, who fell foul of the law and ended up hammering hemp and risking a whipping.

¹For Hanway's Marine Society, see George, op.cit., pp.142, 244, 287, and 363.

²Court Minutes, 23 March 1738: recorded a John Satchell taking a parcel of soap ashes. Ibid., 12 April 1739; 10 July 1741: on two occasions a John Satchwell was charged with pilfering tobacco. Ibid., 9 Nov. 1741, John Satchwell is committed 'to be carried by a Beadle to the Guildhall next Tuesday'; and finally, ibid. 8 April 1742: 'for being an old offender and pilfering tobacco out of a hogshead at Cock's Key of small value', he was committed to hospital.

³O'Donoghue, op.cit., p.188, said that about 2,000 were put in the Bridewell each year in Elizabeth's reign, of whom, approx. three quarters were removed to the place of their birth. Cowie, op.cit., p.352, also added that in the eighteenth century 'over a thousand men, women and children passed through the doors of the Bridewell each year, some three quarters of them made only this short stay there' (because they were resettled). Neither give sources, and as the Court Minutes for this period do not refer to resettlements (whether for vagrants or as punishment for criminals) it is difficult to confirm these estimates.

However, the London Bridewell was only one of the channels of justice that could be used, even when dealing with those who stole only small amounts. There were other prisons within the City walls which acted as repositories for those facing prosecution by indictment. Therefore, a London magistrate's crucial decision to commit offenders using summary or indictable proceedings (or whether to commit at all) was less likely to be based upon the proximity of a place of incarceration, a factor which may have influenced his rural counterpart,¹ than upon the circumstances of the case. Attention therefore turns to the bolder or perhaps simply luckless cases that in the eyes of the law were treated as serious rather than petty and led the accused to answer charges at the bar of the Old Bailey itself.

¹Innes, op.cit., p.28.

CHAPTER 3

PROSECUTION AND MAGISTRACY

One of the most striking facets of the administrative and judicial system for dealing with theft cases (as with many other indictable offences) was the extensive discretion left to magistrates. An early decision in the whole system therefore turned on whether each case was to be dealt with by summary jurisdiction, or sent forward for indictment and full trial.

For example, of the thirty-two dock^{side} offenders who came before the Lord Mayors between 1728-33, half were sent to one of the three main prisons: Poultry Compter, Wood Street Compter, and the infamous Newgate prison, there to await formal legal proceedings. Such cases can be analysed, in unusual detail, both corporately and individually, because the habits instilled into Justices by the Marian bail and committal statutes have created an invaluable source for historians.¹ The City of London Sessions Papers fortunately contain a selection of the original examinations and confessions of suspects, as

¹Justices were obliged to take examinations by 2 and 3 Ph. and Mary, cap.10, a statute that was revised by 1 Will. and Mary, cap.1. For details, see Blackstone, op.cit., IV, 22. These statutes were also concerned with bail and committal proceedings.

well as depositions and other information.¹ As a source the Sessions Papers do, however, suffer from two important weaknesses. First, although they are available for the whole period they are incomplete - material seems to have been filed or to have survived by chance - and, second, they provide no details of the unindictable offences of the kind recorded in the Charge Books, over which Aldermen and J.P.s had summary jurisdiction.² These deficiencies are nonetheless outweighed by the fact that they provide statements of actual events, in testimonies both from the accused and from their prosecutors.

Most of the lengthier informations and examinations in the Sessions Papers reveal the articulation of the magistrate and the gist of his questioning. This was a crucial process; the nature of the offence and the indictment needed to be clarified, and the weight of the evidence assessed. There was a certain scope for negotiation, or plea bargaining. Some offenders were encouraged, especially in these dockside theft cases,

¹These records are in the C.L.R.O. There are two unpublished reference books at the C.L.R.O. which outline the contents of the Sessions Papers. They are T. Morris, London Sessions Papers, 1648-1730 (n.d.) and A. Sutton, London Sessions Papers, 1731-1785 (n.d.): the latter contains a useful introduction (pp.3-5) on details of depositions, recognizances, and judicial procedures in the City of London.

²For these sources, see above, Chapter 2 passim.

to admit to a lesser guilt by giving details of the receiver of their stolen goods. Others were encouraged to implicate their accomplices.

The practice of turning 'King's Evidence' in the eighteenth century, became so common that, in perusing the resultant informations, the historian must be aware of the possibility of malicious accusations. Such a well-known device could readily be manipulated by an offender. It seems that a suspect had to be formally asked to turn 'evidence', but in such circumstances he could easily implicate a known receiver of stolen goods in order to save himself. Using this expedient, William Keys, a tobacco pilferer, gave evidence at the Old Bailey in February 1739.¹ He admitted to stealing tobacco from the hogsheads on the quays in the early hours of the morning with one William Rogers, who had been found guilty earlier in the same sessions. Arrested later by the Merchants' Constable, Keys promptly attempted to diminish his crime by giving full details of the receiver, David Adamson. It was probably this information, that led the Mayor to commit Keys to the Bridewell under summary jurisdiction. Meanwhile, Rogers, his accomplice, was less fortunate; he was indicted and sent to Newgate to await trial. Joseph Crosier, the constable, supplied

¹Old Bailey Sessions Papers, 21-24 Feb. 1739. For full details of this source (hereafter O.B.S.P.), see below, p. 88, fn. 3.

the rest of the story. Acting on a warrant, he visited Adamson at his house in Petticoat Lane and arrested him, advising him to turn 'evidence' himself against his own numerous suppliers. Adamson's hesitation on the journey to the Mayor seems to have excluded him from this option, because, when he subsequently considered accepting Crosier's offer, the constable replied that: 'It was too late'. However, it proved, in this case as with many others, very difficult to convict the men who lived off crime as receivers of stolen goods. Although their role increasingly worried magistrates in this period, it was difficult to provide incontrovertible evidence against them. Most were wealthy enough men to be given bail, and most of those whose cases actually reached a trial pitted their reputation (and often character references from their neighbours) against the word of a material witness, who was a confessed thief. It was not surprising therefore, that David Adamson in 1739 was also acquitted.

Successful prosecutions were more likely when criminals turned evidence against their accomplices. Strictly speaking the offer of turning 'evidence' was exercised by the justice, although Adamson's case indicated that it was sometimes used by the constabulary at an earlier stage, as a means of making the search for felons more rapid and effective. In addition it may have been to the constable's benefit to cultivate evidences into becoming more regular informers. Generally, magistrates

preferred to give the option of turning 'King's evidence' to those most easily detachable from the rest of the gang or to the least guilty. Thus, for example, although William Rippin and Benjamin Jones were examined together by Sir Francis Forbes in May 1721 for stealing some tobacco, Forbes accepted Jones's story that he was only the look out and that Rippin had 'enticed' him into the deed.¹ Eventually, Rippin appeared alone at the bar of the Old Bailey, his confession was read, and a guilty verdict brought against him. Interestingly, however, the more fortunate Jones, whose earlier testimony had proved vital in assessing Rippin's degree of guilt, seems to have played little or no part in the prosecution of his accomplice at the trial. Instead, one Joseph Laurence (their captor) was the material witness, with additional testimony supplied by George Casar, a watchman. Perhaps in this case the examining magistrate felt that extenuating circumstances, such as youth, previous good character, or poverty - if not the authenticity of the enticement plea - should work in Jones's favour. Here the extent of the magistrate's discretion was manifest, as he transformed the crime of a person involved with felons into one that came under his summary powers.

¹C.L.R.O., Sessions Papers, 23 and 25 May 1721: 'The examination of William Rippin and Benjamin Jones before Sir Francis Forbes', Box 1721-23. At his trial later in the month, William Rippon was found guilty and sentenced to transportation: See O.B.S.P., 25-27 May 1721.

Normally however, the records suggest that 'King's evidence' was only granted, when it was absolutely necessary to obtain the conviction of a greater felon (or felons) and this almost invariably necessitated a court appearance in the role of witness.

Unusually detailed documentation in one complex case of 'pilphering' in 1734 seems to have survived not only because the accused was made an 'evidence' against an accomplice and a receiver, but also because he fell foul of the City bureaucracy in committing his crime.¹ The case of John Heath was not in fact concerned with the dockside, but deserves brief comment as it illustrates the difficulties in establishing legally-valid evidence. On 19 September 1733, John Heath, a labourer employed in repairing Bishopsgate for the Corporation, admitted to having 'pilphered' some 'iron' from his master. He signed an ad hoc confession before several men the same day, but the printed custody note authorising his incarceration in Newgate was not issued until 28 September. Accompanying the 'confession' was a scrap of paper, used as a receipt for the stolen lead, which showed the purchaser to be one Thomas 'Toler' (Tollar), and another note naming Heath's accomplice as Edward

¹C.L.R.O., Sessions Papers, 1734 ('Misc.'): twelve documents survive instead of the usual one or two. This was one of the first theft cases to use prosecution counsel at the Old Bailey.

Leaver. Heath's further confession in gaol on 9 October gave greater details about the roles of Tollar and Leaver, and formed the basis of an indictment against both men, and another against all three. The accomplice was not arrested until late December, but he was eventually sent to Newgate to await trial on 1 January 1734.

John Heath then convinced the prosecutors that his part in the crime was so inconsequential that he only received 1/-;¹ and he finally made his 'information' against Leaver on 11 January 1734, before Sir Richard Brocas. Probably for reasons of safety Heath was then committed on the next day to Wood Street Compter 'to be kept in order to be an evidence'. The final document in the Sessions Papers, the Brief for the prosecution, is to be found wrapped around all the others. Its three sections (with details of the crime, Heath's role, and instructions for calling witnesses) give an indication of how early counsels organised themselves for minor trials such as this, which normally lasted only a matter of minutes. Indeed, the record of the trial itself in the OBSP barely rated seven lines, and Leaver was acquitted.² No reason was given, but it is likely that sole reliance upon

¹For the importance of this value in committal proceedings, see below, p.80.

²O.B.S.P., 16-18 Jan. 1734.

Heath's 'confession'¹ - as well as drafting ambiguities in the indictment - gave the defendant his chance of escape.

It must be remembered therefore that cases that eventually came to court had been through a protracted prior sequence of sifting and assessment. There was scope at all stages for cases to be stopped. The procedure for indicting alleged criminals had developed in the Middle Ages as a way for the accused to present his case to the local citizens, who made up a grand jury to determine whether the issue was worthy of a trial. Finding a bill of indictment (i.e. the accusation) 'true' ('vera') did not mean that the accused was necessarily guilty (only evidence for the prosecution was heard), but it did show that there was reasonable suspicion to warrant a full trial. Bills found 'not true' were marked 'ignoramus' ('we do not know'), as an indication of insufficient evidence. Hence the importance of accuracy in drawing up the bill of indictment.²

¹The rules of acceptable evidence were not really formed until the later eighteenth and early nineteenth centuries: See Radzinowicz, op.cit., II, 40-44. Other problems for the prosecution included the requirement that suspects had to be 'examined' by a justice within three days of arrest, otherwise proceedings on the imprisoned's behalf could begin against the prosecutor. For the status of King's Evidences, see also ibid., II, 42-43; 55-56. There was a hope of more lenient punishment and a recommendation for mercy ('equitable title to the mercy of the crown'), but no promise of pardon by right.

²On the value of indictments, and particularly the problems with counting them, see J. Beattie, 'Towards a Study of Crime in Eighteenth-Century England: A Note on Indictments', in P. Fritz and D. Williams (eds.), The Triumph of Culture: Eighteenth-Century Perspectives (Toronto, 1972), pp.299-314.

The reforming magistrate, Sir John Fielding, was anxious to assist prosecution of criminals and gave clear advice in his book Penal Laws relating to the Metropolis (1768).¹ For crimes committed in the City of London, details had to be referred to a Mr. Reynolds at the Old Bailey. For crimes committed in Middlesex, two clerks at Hick's Hall (in St. John's Street) dealt with business on the Tuesday of sessions week. Time could be saved, Fielding suggested, if the names of prisoners and witnesses, full accounts of stolen items, and dates and locations of the offence were taken, in writing, to the clerk, plus a fee of 2/-. If found a true bill and the crime was, legally speaking, serious enough - for theft, the value of the goods had to be more than 1/- - then it became triable and the accused, unless on bail, was sent to Newgate, the destination for all who were to appear at the Old Bailey.

A calendar or list of the prisoners awaiting trial in Newgate prison forms the protective wrapping of the Sessions Files. Apart from the prisoners' names, details such as the time and nature of offence, the magistrate

¹ J. Fielding, Extracts from Such of the Penal Laws as Particularly relate to the Peace and Good order of this Metropolis: With Observations for the better Execution of Some and on the Defects of Others (1768), pp.248-9. The precision of indictments was an ancient requirement, stretching back at least to its specification in 1 Henry V, cap.5 (1413).

or Alderman, and also the prosecutor are given.¹

Unfortunately, many of these calendars, particularly for the 1740s, are either torn or illegible. Inside this wrapping, however, may be found a pile of indictments and recognizances - the bonds issues to compel attendance at court. (The indictments are those for City of London offenders only; the recognizances encompass both City and Middlesex jurisdictions.) Also often included, although nearly always well hidden, are the gaol lists for Wood Street and Poultry Compters. These records can be of singular interest, especially when one considers that for many crimes they form the first documentation. Indeed, for suspects apprehended after the magistrates had closed their offices for the day, the Compters became their home for the night until a hearing could be arranged, usually the following day. At the start of the eighteenth century Ned Ward described, in characteristically lurid detail, the rough treatment he and a friend received as 'night charges' in a part of the Poultry, known as the 'Rats' Castle', and their subsequent release the next morning.² For others, it was only the beginning

¹These records are also in the C.L.R.O. (In addition, the calendar also recorded whether the accused had already suffered incarceration, and if so, which Compter (prison) they had been delivered from.) Brief details of the seventeenth-century Sessions Files may be found in D.H. Bowler (ed.), London Sessions Records, 1605-85 (Catholic Record Society, XXIV, 1934).

²Ward, op.cit., (3rd edn. 1706), pp.81-91. For other accounts of the Compters, see W.J. Sheehan, 'The London Prison System, 1666-1795' (unpublished Ph.D. thesis, University of Maryland, 1975), pp.112-16.

of a long period of incarceration.

Individual cases apart, the Sessions Files have a more general value. With the aid of the Sessions Minutes Books, which list the grand juries, witnesses for the prosecution, and other brief details of whatever else preceded the Court case, they provide documentation of all the pre-trial stage of criminal procedure. These records have been examined essentially for dockside cases, although the mechanisms held good for all cases caught up in the system. As far as pilfering cases in the docks were concerned, the records clearly indicate that some Aldermen, constables, independent dockside labourers, and wharfingers were especially keen on using the legal process to achieve redress or to obtain reward. They also show that for most property crimes, in which category theft from the quayside fell, bail was very rarely given. When it was, it was tantamount to an admission of insufficient evidence and/or a reflection of the status of the accused - which is probably why so many receivers were summoned to appear by recognizance. During the period December 1728 to December 1733, out of a total of 92 dockside suspects recorded in the Sessions Files only ten were granted bail, two of them being receivers. Only one of these was ever tried. Four of them were called to answer complaints that they were guilty of simply 'pilphering twelve hands of tobacco',¹ which

¹C.L.R.O., Sessions Files, Dec. 1731. Unusually, the word 'pilphering' was used on the recognizances issued to William Slade, John Skinner, James Carter and James Orum.

implied a prejudgement of the degree of guilt because normally recognizances (like indictments) used the word 'feloniously' to describe the crime. Three of these answered the complaint satisfactorily and the charge was dropped. In the fourth case, the prosecutor defaulted - one of only two of the accused to be reprieved in this way.

The other 82 suspects all saw the inside of Newgate, but again five of these, for whom indictments cannot be found and verdicts are unknown, may never have come to trial at all - being delivered by death, or turning 'evidence', or some other means.¹ The most common way of evading a trial, however, lay in the powers of the Grand Jury of Presentment. In each Sessions File a large number of indictments are placed to one side with the word 'ignoramus', or after April 1733 'not found', written on the back, but only three of the 82 were freed in this way. This very small proportion was probably, in large part, due to the nature of dockside thefts. In general, bills of indictment were more likely to be successful if thieves were caught in the act or in possession of the goods. Dockside thefts were usually concerned with

¹For examples of appeals from Newgate, see Sessions Papers, 26 and 28 Aug. 1723: 'The humble petition of Richard Pollard now a prisoner in Newgate', who asked to be tried or discharged in the next sessions; and 'The humble petition of Joseph Taylor now a prisoner in Newgate', which was almost a carbon copy of Pollard's appeal.

highly moveable goods, that could be 'fenced' or disposed of easily - therefore, unless the culprit was caught in incriminating circumstances, most pilferers went undetected;¹ but those who were apprehended had less chance of escaping prosecution (although even that had plenty of escape routes).

Another important factor in successful prosecution lay in the more professional and business-like approach of the dockside police and prosecutors. For the constables, prosecution was simply another aspect of their job and, as their opportunities for indictment were regular, their experience of what was necessary for the pre-trial process was bound to be greater than that of the average citizen. In addition, a good constable knew to find witnesses as soon as a felon was caught in the act or in possession, so that his story could be corroborated later in the legal process. For the wharfingers, prosecution was a way of protecting their interests and a demonstration that they were prepared to make examples of those who stepped beyond the agreed bounds of minor perquisites (as discussed in Chapter 5). Two wharfingers, who were regular complainants at the Old Bailey in the middle

¹The size to value ratio of dockyard goods resulted in some ingenious methods of carrying goods away in specially constructed garments: see discussion below, pp. 175-178.

years of the century, were the brothers John and Caple Hanbury.¹ Probably, too, a growing volume of crime on the docks led to a greater care and precision in bringing in indictments. This is borne out by the fact that there seem to have been very few malicious accusations in dockside crimes, except in cases where one criminal falsely implicated another.² It should be noted, incidentally, that prosecutors were by no means always the owners of the missing goods, those in transit often being attributed to 'persons unknown'.

By the beginning of the eighteenth century, it had long been established that there were eight sessions annually at the Old Bailey. The pace of activity in Newgate prison started to quicken at least two weeks before each one, as it was obligatory for all prisoners to be housed there before the trial. Consequently, eight times a year there was pandemonium, as Newgate's inmate population doubled,

¹See O.B.S.P., 27-28 Feb. and 1-2, 4 March 1751; 17-20, 22 April 1751; 26-28 Feb. and 1, 3-4 March 1755. There were also some special cases, such as the East India Company and Jonathan Forward, one of the contractors for the transportation of felons. For further details of Forward see Beattie, Crime and the Courts, pp.504-5.

²In one case the defendant, Edmund Ogden claimed that the witness was looking for revenge against him (O.B.S.P., 6-13 Dec. 1721). Another prisoner claimed that his employer was using prosecution as a means of settling 'an old grudge which he owed me': ibid., 2-5 July 1755, the trial of William Rice. Pecuniary gain may also have played a part. For example, at the trial of David Carter (ibid., 21-22 May 1724), it transpired that the fabrications of a malicious prosecution had been procured by bribery.

or even trebled.¹ By 1726, the problem had escalated to such an extent that Justices were ordered to make all transfers of prisoners from other gaols at least six days in advance, in order that the gaol calendar be compiled in time. The work of the Grand Jury, which normally numbered twenty three citizens, also began before the trials for obvious reasons, but only by a couple of days, and continued into the sessions until all the indictments were presented and processed. The fortunate suspects, whose bills of indictment were 'not found', were then set free, on payment of the numerous fees for bed and other multifarious prison services. Those with 'true bills' prepared themselves for a trial at the Old Bailey, which might lead them to a different continent, or, in extraordinary or aggravated cases, on the road to Tyburn itself.²

The Old Bailey was unusual in that it empanelled two twelve-man juries: from one of the Middlesex hundreds, and from one of the Wards of London respectively. Like

¹See Sheehan, *op.cit.*, pp.97-138. For an insight into the services offered to prisoners in London's gaols, see *ibid.*, pp.139-86, 239-78, and W.J. Sheehan, 'Finding Solace in Eighteenth-Century Newgate', in J.S. Cockburn, *op.cit.*, pp.229-45.

²Pilferers and others, who returned from transportation before the expiry of their sentence, or those compounding their offences with more serious crimes, risked the death sentence, and occasionally the Ordinary's Accounts refer to the fact that a hanged man had once worked by London's riverside (e.g. Feb. 1719 two men hung for stealing 42lb. sugar; April 1763 two men sentenced but later reprieved for stealing six hempen sacks and 24 bushels of malt): For this source, see P. Linebaugh, 'The Ordinary of Newgate and His Account', in Cockburn, *op.cit.*, pp.246-69.

the corresponding Grand Juries, they adjudicated only over the offences committed on their particular side of the city walls. Apart from the way they were chosen (and the fact that they were all men), the records suggest that there were three other significant differences from modern jury practice. Firstly, jurors were seldom challenged, even though the accused's right to do so was never in doubt; secondly, jurors quite often had previous experience of jury service; and lastly, jurors were ratepayers and therefore men of substance. These requirements indicated that the role of juror was emphatically not considered a democratic right, but a duty consequent upon property ownership.

in theory

The principal judge of the Old Bailey¹ was the Lord Mayor.¹ By a charter of 1638, he could be assisted by Aldermen who were former Mayors, the Recorder (who was his legal advisor), and by three senior Aldermen - a figure increased in 1692 to six. It was not unusual, however, for the Recorder to preside alone over less controversial trials, such as those for 'simple larceny'; or for other judges to attend when specialist advice was needed. The eighteenth-century proceedings at the Old Bailey give very little information indeed about

¹Jones, op.cit., pp.1-3. For studies of trial procedure, see for example: Baker, op.cit., pp.416-18, and contemporary works such as Strype, op.cit., II, 384.

the role of the Bench. Verdicts arrived at by juries for individual cases are simply noted, but seldom give any hints as to how their decision may have been prompted. It was common practice for judges to comment on the merits of the case and ask relevant questions, especially in the first half of the century, when lawyers were seldom used and the only defence the accused had was himself.¹ Even a caustic comment or timely remark may have had a marked effect on the jury. In only one case were these exchanges recorded, and that in such an exceptionally detailed and early pamphlet of 1678,² that it cannot be taken as proxy for procedure in the eighteenth century.

The published proceedings of the Old Bailey trials are available from 1674 and become more plentiful from the 1680s, forming a continuous series from December 1714 onwards.³ The earliest examples resembled crime chap-

¹J. Langbein, 'The Criminal Trial before the Lawyers', Univ. Chicago Law Review, 45 (1978), p.276.

²Ibid., p.274, for details.

³The proper title of the printed proceedings of the trials at the Old Bailey is: The Proceedings on the King's Commission of the Peace, Oyer and Terminer, and Gaol Delivery for the City of London; And also the Gaol Delivery for the County of Middlesex, Held at Justice-Hall in the Old Bailey. Until recently the most complete collection in Europe of the Old Bailey Sessions Papers, as they are commonly known, was to be found in the Guildhall Library, London; with it being sometimes possible to fill gaps by using the holdings in the British Library, Lincoln's Inn Library (London), and elsewhere. A complete collection of the O.B.S.P. from 1714 to 1834 (with the very minor exceptions of 6 March 1718 and 4-7 Dec. 1719) is now available on microfilm. For details, see M. Harris, The Old Bailey Proceedings, 1714-1834, Parts 1 & 2: A Listing and Guide to the Harvester Microfilm Collection (Brighton, 1984). For an analysis of the late seventeenth and early eighteenth century O.B.S.P., see also Langbein, 'Criminal Trial', op.cit., pp.267-71. The O.B.S.P. are sometimes referred to as the Printed Proceedings.

books and were often printed in order to report on a particularly exciting or outrageous trial. Hence, the sources were not compiled with the intention of recording each trial fully, but with the intention of being sold to the literate public who enjoyed the sensational. However, with the beginnings of a more coherent format from the 1680s onwards, the content was slowly extended, so that the more mundane trials, concerning dockside theft for example, were included - if only at a cost of a few lines each. Major changes took rather longer; it was almost another fifty years until the norm of six to eight pages was extended to nearer twenty. The evidence of material witnesses (which had been included in condensed form since 1710) was, by the 1730s, often presented verbatim or the questions and answers of both prosecuting counsel and the accused were paraphrased to make the trial appear more like a flow of dialogue. These attempts to increase readership (with a new easy-to-handle size, and interesting advertisements, ranging from venereal cures to Histories of the World) have benefitted the historian immensely. With the fuller reporting of trials from the early 1730s, these become the key source for the study of dockside crime in London.

During an average session lasting three or four days, in the mid-eighteenth century, there would be over fifty trials to get through. Very seldom did people plead guilty, for this meant that no allowances could be made

by the jury in assessing the degree of guilt - an important factor in determining the sentence. Instead, the accused, standing at the bar would, having heard his indictment, plead to be 'put on his country' and have trial by jury.¹ The trial itself would have been very quick by modern standards, probably only about ten minutes. This speed was due, in part, to the pre-sifting and collating of documentation, in the course of the legally-required examination before the magistrate. That ensured that evidence was readily available and pre-declared; indeed, it was not unusual for the prosecution to refer to the accused's original examination in cases where the prisoner at the bar articulated his own innocence.

Probably the main reason for the speed of trials was the fact that lawyers hardly ever appeared, either for the prosecution or defence before the 1730s; and then very seldom, until later on in the century. It was argued that, as the onus was on the prosecution to find proof of guilt and the accused was bound to be expert on the most important facts of his own case, counsel for the

¹Baker, op.cit., p.416. The main reason why people pleaded not guilty or 'by God and the country' was because most felonies were capitally punishable. Not to plead at all was to be put in a 'prison forte et dure' which came to be understood as 'peine forte et dure' - the pressing of a felon to death by heavy weights. (At least, earlier on, this meant that they did not forfeit their goods; but it had obvious disadvantages and was generally avoided.)

defence was definitely not needed. Similarly, the prosecution should only need advice on points of law, not the facts.¹ If the judge ever felt legal advice was necessary, then he took it upon himself to give it and it was not unusual for him to ask relevant questions of the accused and material witnesses. That meant, however, that much modern court-room business, such as detailed cross-examining and addressing the jury, was left undone, and consequently proceedings were shortened.

The speed with which juries reached decisions must also have played a part. This may have been because of the similarity of many cases, and also the organisation of trial procedure. Theoretically, while one jury heard testimony, the other could decide on the verdict, so that no time was ever wasted. The system, which had initially been to hear a dozen or more cases and come to a conclusion on them all together, had in practice become so unworkable that from 1738 onwards verdicts came to be given at the end of each case. To make regular consultation between jurors easier, the Lord Mayor announced at the December Sessions in 1738 that twelve seats would be rearranged so that normally there would be no need to withdraw.² In reaching a verdict, eighteenth-century juries were also allowed to take into

¹Langbein, 'Criminal Trial', op.cit., p.307.

²Gentleman's Magazine, VIII (1738), p.659.

consideration several aspects of evidence, which today would be inadmissable. During this period, judges did not give cautionary instructions to jurors to ignore hearsay evidence, even if they disapproved of it themselves as 'tittle tattle'. Even more importantly there was no ban upon the disclosure of previous offences in open court, before the verdict was reached. That was so that the jury could find a punishment fit for the felon, not simply for the individual crime.

For example, in the case of Matthew Jones, who took 16lb of sugar from Botolph's Wharf, a witness claimed: 'I have seen him with something in his Hat several times upon the Wharfs, and have had several Runs after him, but could never take him "till now"'.¹ Similarly, in January 1745, at the trial of one James Bell who took 2lbs of sugar, Thomas Miles said in evidence: 'I have often seen the prisoner a feasing [stealing] upon the Keys'.² Similarly, mitigation could form an acceptable part of a prisoner's defence before the verdict was reached. A jury might look favourably on someone pleading poverty, with a large family to support, or claiming a first offence. For example, in 1763, a 'character' for John Cox explained to the court that Cox's wife and four children were ill with smallpox. Although found guilty, Cox was only branded.³

¹O.B.S.P., 7-9 Sept. 1737.

²Ibid., 16-18 Jan. 1745. 'Feasing' was a cant term for theft.

³Ibid., 14-15, 17 Jan. 1763.

Cases of theft itself were divided into two main categories. Petty larceny (which was the 'simple' larceny of goods that were valued at less than 1/-) was not a capital offence; grand larceny was.¹ These simple definitions were sometimes complicated by the numerous statutes, passed after the Glorious Revolution. For the dockside criminal during this period, the relevant legislation was the Statute of 1699² which made stealing goods worth 5/- or more from a warehouse a capital offence, and another of 1751, which made capital the theft of goods to the value of 40/- on board any vessel or wharf.³ The police reformer Colquhoun later pointed out sardonically the absurdity of these evaluations, especially that for petty larceny, which had originally been devised in the reign of Athelstan when a shilling could purchase 75 times as much as it could in 1800.⁴ Juries, too, had long recognised the folly and injustice of this legal anachronism, but they had it within their power to bend the rules, if they wished, by reducing the value of the stolen goods in order to make the felony a non-capital one.

¹ 'Simple' larceny was plain theft unaccompanied by any aggravating circumstances, mixed or compound larceny was theft aggravated by taking away from a house or person. For a glossary of useful terms, see E. Melling (ed.), Kentish Sources, VI: Crime and Punishment (1969).

² 10 and 11 William III, cap.23 (1699), clause 1.

³ 24 George II, cap.45 (1751).

⁴ Colquhoun, Police, p.51.

Certainly, Old Bailey juries had a penchant for making these 'partial verdicts', or committing 'pious perjury' as Blackstone called it.¹ Especially that seemed so in cases of dockside theft. Contrary to the facts, goods were often valued at 10d., or 4/10d. for those taken from a warehouse. During the period 1729-33, of the 43 people technically guilty of grand larceny none were sent to the gallows.² The nature of most dockside thefts may have been responsible for this apparent generosity. Goods were normally stolen unaccompanied by aggravating circumstances like violence against the person. In fact, the usual target was a deserted warehouse or lighter, or maybe a concealed hogshead. It was also an opportunity for the jury to mitigate the severity of the law for the majority and to reserve the ultimate deterrent for only the very worst offender. This was one good reason why so many of the accused brought friends and neighbours to testify to their previous good behaviour. Indeed, in doubtful cases the evidence of 'good character' could be important in obtaining an acquittal. Thus, it was in September 1722 that John Downs, who had all along denied vigorously the charge that he had stolen 1 cwt.

¹Blackstone, op.cit., IV, 239.

²In this instance a picture of those guilty of 'grand larceny' was constructed by using Sessions records in conjunction with each other. See Sessions Files, 1729-33; Sessions Minutes Books, 1729-33; O.B.S.P., 1729-33. P.W. Coldham, English Convicts in Colonial America (New Orleans, 1974), 2 vols., may be used to check details of the transportation of convicted felons.

of tea, was found not guilty because he 'brought several creditable Gentlemen to his Reputation'.¹ How often this was the determining factor is difficult to say without the full notes of a trial. Acquittals were also induced by some inadequacy in the prosecution's case. Judging by the fact that, of the 74 dockside prisoners actually sent for trial in December 1728-33, fully thirty-one were acquitted, it seems hardly surprising that lawyers eventually came to be used to help on points of fact as well as points of law.

For this study, a total of 1082 cases relating to dockside offences recorded in the Old Bailey Sessions Papers were examined in detail. The ambiguities, inconsistencies, and brevity of trial reports before about 1720 and during the period October 1783-December 1787 presented one problem: sometimes only the briefest of details or a chance remark in the testimony gave verification of the geographical whereabouts of an offence. In another 126 cases, the commodity stolen, names of victims, and constables and methods of appropriation suggest that they too could be categorised as dockside offences. By tracing each case history through the other Sessions records it is sometimes possible to add them to the total or eliminate them altogether. Similar methods may be used to clarify

¹O.B.S.P., 7-12 Sept. 1722: one of the earliest references to 'characters'.

the few cases where the verdict is unclear in the printed proceedings.

Even so, the printed Sessions Papers can be a valuable source for attempting not only a reconstruction of the earliest stages of the legal process (detection, pursuit, and apprehension), but also the modus operandi of pilferers on the quayside.

The variety of cases was well indicated in the records of 1751. At the January sessions at the Old Bailey, nine people stood trial accused of stealing goods from alongside the River Thames. Their offences ranged in magnitude from a well organised raid on a lighter, five men making off with 7 cwt. of cotton worth £50,¹ to the theft from a hogshead of 1½ lbs of tobacco worth a mere 10d.² The printed sessions papers describe the eight cases (two stood trial together and only one of the gang of five was arraigned) at varying length. The quite unsensational cases of Thomas Hayes (2 lbs tobacco), William Harris (1¾ lbs tobacco), and Thomas Cunningham

¹Ibid., 16-19, 21 Jan. 1751, the trial of John Lighorne. Lighorne was one of four major offenders in mid-century, who were found guilty in large part because an accomplice, James Penprise, turned King's Evidence. For further details, see ibid., 12-15, 17-19 Sept. 1750. Penprise was himself convicted in 1752 for stealing a hog: ibid., 14-16, 18-20 Sept. 1752.

²Ibid., 16-19, 21 Jan. 1751: the trial of Thomas Cunningham.

(1½ lbs tobacco) merited little more than a few lines,¹ leaving the historian with only a brief synopsis of mainly prosecution evidence. Some reporting of dockside crime was more extensive - especially where the value of goods was high, a gang of men was involved, or when evidence incriminating a receiver of stolen goods was given. But most common of all were cases of individuals taking small amounts of goods - as different from the gang crimes as (say) shoplifting is to bank-robbing today.

One case provides an example of the speedy dispatch of a minor offender. The testimony of only one witness, the dockside constable (the only witness on recognizance to appear), was sufficient to convict a known pilferer. The entire record of the case runs as follows:

William Harris was indicted for stealing one pound and three quarters of tobacco value 10d., the property of John and Caple Hanbury, on 11 Dec.

James Emerson: I took the prisoner with the tobacco upon him, on the 11th of December. I saw him take it at several times out of a hogshead; there was no other hogsheads near but those of John and Caple Hanbury's. I know the prisoner to be a common pilferer on the keys. Guilty.

After the hurdle presented by the trial, almost 60% of dockside offenders were found guilty. Table 4 gives full breakdown, for those cases where verdict is known.

¹All the cases of Hayes, Harris, and Cunningham occurred in the same sessions: see ibid., 16-19, 21 Jan. 1751.

TABLE 4. DOCKSIDE OFFENDERS¹ AT THE OLD BAILEY, 1684-1800

	CASES	DEFENDANTS	VERDICTS KNOWN No. (%)	ACQUITTALS No. (%)	FOUND GUILTY No. (%)
Known Dockside Cases	1082	1370	1300 (94.9%)	493 (36%)	807 (58.9%)
Dockside Cases (Known and Probable) ²	1208	1518	1434 (94.4%)	547 (36%)	887 (58.4%)

SOURCE: These figures were drawn up from the O.B.S.P. in the Guildhall Library, London. It is not a fully comprehensive list because the collection is incomplete. There are numerous gaps from 1684-1729. From December 1729-1800 there is almost a complete series, with a gap between October 1741-December 1744, excepting the sessions on 13 April and 19 May 1742; April 1743; 12-14, 17 October 1743. The printed proceedings for November 1767 is also missing.

Notes:

1. 'Dockside offenders' are taken to be those who were arraigned for offences allegedly committed on the quayside, in or near waterfront warehouses and other buildings and on ships and boats anywhere along the River Thames. The term also extends to those who received goods from these offences.
2. Between 1783-1787 especially, because of ambiguities and inconsistencies in the reporting of trials, geographical references are sometimes omitted. As a result cases for this period have been divided into those which can definitely be categorised as dockside and those, which because of the commodity, the constable (or some other chance remark) are probably dockside offences. Ultimately, the geographical whereabouts of these uncertain cases can be verified by using other sessions records. The second row of figures therefore includes the 126 cases, with incomplete verification.

The jury then had considerable scope by arriving at 'partial verdicts'. And powers of discretion did not stop there. The usual punishments for petty offenders in the seventeenth century had been whipping or branding, designed both to chastise the offender and to serve as a deterrent to other potential criminals.¹ Gradually, however, these methods were found inadequate; and yet juries disliked drastic punishments, such as a capital charge for all felonies. That meant that criminals would have been punished either inadequately or too severely, had it not been for the introduction of a new punitive option - transportation. An act of 1597 to banish rogues and vagabonds had earlier provided the legal framework for transportation (usually in reprieve for the death sentence) but in 1717 the concept of transportation was extended, when it became a punishment in itself for all but the most serious or most trivial crimes, (such as petty larceny.)² Clearly, this alternative gave judges the power to interpret partial verdicts in two ways. The more undesirable felons could be transported to the American colonies or the West Indies for seven or fourteen

¹In the eighteenth century, branding became mainly a ceremonial event: see Baker, op.cit., p.4. Whipping, as described by many sources, could be quite agonising as well as humiliating: see testimony in Fuller, op.cit., pp.8-9.

²Coldham, op.cit., I, x-xi. The Transportation Act was 4 Geo. I cap.17 (1718). Others were: 6 Geo. I cap.23 (1720), 16 Geo. II cap.15 + cap.31 (1743), and 8 Geo. III cap.15 (1768).

years, depending on the crime. For lesser punishments, whipping and branding remained options. However, the trend of eighteenth century sentencing was against leniency.

In all, 6,000 Newgate prisoners were sentenced to transportation before 1775,¹ and a proportion of them, it would seem, had committed their crime on the quayside. Of the forty-three men and women found guilty for such offences during the years December 1728 to December 1733, only two were sentenced to whipping, one of those probably because he was too ill to survive a sea crossing,² and none to be branded. The other forty-one were all sentenced to transportation,³ but whether the jury had added recommendations to their verdicts remains unknown. In general, it seems that the consistency with which felons were transported after 1717, would suggest that the Old Bailey judges operated a definite policy in favour of its use.⁴

¹Coldham, op.cit., II, vii.

²For illness of Francis Mason in Newgate: see C.L.R.O., Sessions Files, Dec. 1728 and April 1729. Verification of sentencing can be done by checking verdicts written on indictments in the Sessions Files, by consulting the Sessions Minutes Books, or by finding the trial in the O.B.S.P. Those who fell into the summary jurisdiction category can be pursued by checking the Charge Book, 1728-33 and the Court Minutes (see Chapter 2).

³Not everyone sentenced to transportation actually went: Coldham, op.cit., passim, gives details of convicts, whose sentence was carried through.

⁴On the implications of mercy and discretionary sentencing, see discussion by Hay in Hay, Linebaugh, and Thompson, op.cit., pp.40-9. For a convincing argument that the powers of discretion and mercy were exercised extensively by middling men: see King, op.cit., passim.

Yet it is worth finally stressing the diversity of the system. Of the 92 cases studied in detail, under 50% (forty-three) came right through to recorded punishment. The remaining 49 were scattered: two were bailed out with no further record; eight answered recognizances (1 got default, the other seven were successful), five cannot be traced (died in gaol? turned 'evidence'?), three were 'not found', and a triumphant thirty-one (35%) were tried but acquitted. It suggests therefore that a combination of cumbersome procedures, discretionary powers, and the majesty (rather than efficiency) of the legal system combined to underpin the powers of magistracy vis à vis the petty criminal on the quayside, who were foolish or unlucky enough to be caught.

CHAPTER 4

DETECTION AND CRIMINALITY

Not surprisingly, therefore, much attention was given, in the course of the eighteenth century, to the theory and practice of policing London's docks. Within a developing framework, 'crime', 'police', and 'the law' took on new meanings in the already well-regulated City; just as the opportunities for theft were increasing, so too were the risks of apprehension.

As its basis in practice, the system depended upon the activities of the constables. The liberality of criminal procedure in early eighteenth-century England was clearly demonstrated at its earliest stages by the care and restraint these constables were advised to take in the exercise of their duty. The weakness of their position was pointed out by Saunders Welch, in his Observations on the Office of Constable (1754).¹ A constable had

¹S. Welch, Observations On the Office of Constable: With Cautions for the more safe Execution of that Duty, drawn from Experience (1754), esp.pp.12-17. See also J. Paul, The Parish Officer's Complete Guide; Or the Laws relating to the respective Duties of Churchwarden, Overseer of the Poor, Constable, and Surveyors of Highways (6th edn., 1793); J. Fielding, A Treatise on the Office of Constable, bound with Penal Laws (1768), pp.321-72; and P. Colquhoun, A Treatise on the Functions and Duties of a Constable containing Details and Observations Interesting to the Public, as they relate to the Corruption of Morals, and the Protection of the Peaceful Subject against Penal And Criminal Offences (1803).

to act within reasonable time, if a felony was reported to him, but wrongful arrest (whether in the case of mistaken identity and of no felony being committed) could easily lead to a countersuit for assault or, in the case of searching premises for a felon or stolen goods, a countersuit for trespass. On the other hand, undue caution (including the precautionary action of obtaining a justice's warrant) that might lead to the felon's escape, or a failure to act at all could lead to charges of negligence. It took some skill and judgement. Small wonder that it was not uncommon for citizens, elected to a job where legal and possibly physical retribution might be forthcoming, hired substitutes, while others paid up to £30 for a 'Tyburn ticket' which exempted them from the duty altogether.¹

And yet, despite the fact that complexity was built into the system, by the standards of the day the policing of the City of London had a ring of efficiency about it. There were, in fact, three different forces. One

¹See 10 and 11 Will. III, cap.23 (1699), An Act for the better Apprehending, Prosecuting and Punishing of Felons that Commit Burglary, House-breaking, or Robbery in Shops, Warehouses, Coach-houses or Stables, or that Steal Horses. Clause 2 specified that anyone who apprehended a person accused of these offences would be entitled to a free certificate exempting them from holding office in the parish or ward where the crime had been committed. It could be sold, but only once. Colquhoun, Police, op.cit., p.391 said the value of a 'Tyburn ticket' varied from parish to parish, reaching from £15-£30. However, Radzinowicz, op.cit., I, 193, has recorded that a Tyburn ticket was sold in Manchester in 1818 for £280.

group, active throughout the City, was maintained directly by the Chamber of London, under the auspices of the Lord Mayor and Aldermen. For convenience, they divided the City into two areas: those guilty of criminal activity east of King Street (the area where opportunity for dockyard crime was greatest) were taken to the Lord Mayor, at the Mansion House.¹ Crimes to the west meanwhile were taken to a court in the Guildhall, where the Aldermen presided in rotation.²

The parochial system, as used ubiquitously in England and Wales, provided a further basis for policing the twenty-six administrative units or wards of the City. Again, this was under the general supervision of the Lord Mayor and Aldermen, who, with the Court of Common Council, decided each year on the number of constables and other officers needed. The beadles and constables were then chosen by their respective precincts and confirmed at a Wardmote (an assembly of freemen and householders of the ward). Although their job was primarily to protect the citizens of the ward, for which they had been appointed, they could execute justices'

¹Radzinowicz, op.cit., II, 179-80; and 492-99, which gives regulations for the Chamber of London force for 1828.

²For details of Aldermanic powers, see Jones, op.cit., pp.1-3. By 1741, all Aldermen were constituted with J.P. status, and the records for their court date from the 1750s.

warrants throughout the City.¹ The City and ward constables were unpaid, reimbursed only by the 5/- reward granted for each arrest that led to a successful conviction.

The third type of police evolved in direct response to crime in London's dockland. In 1711, the Commissioners of the Excise appointed special constables, whose main responsibility was to prevent quayside pilfering.² Unlike the men of the other forces (if indeed the ward constables could be considered as a corporate body), they were guaranteed a weekly wage of 10/-, and therefore the 5/- reward for each successful conviction was for them a supplement rather than a necessity. How far the different patterns of pay affected the number of arrests is, however, difficult to say. It should be noted, too, that many lighters and warehouses were also 'protected' by a large number of watchmen hired directly by merchants - although these 'Charlies', as they were called, were sometimes known to work in opposition rather than in collaboration

¹Radzinowicz, op.cit., II, 180.

²Ibid., II, 353. Radzinowicz consulted 'Notes and Extracts from the Minutes and Orders issued by the Commissioners of the Customs for the Instruction and Guidance of their Officers', 11 Jan. 1711. These Manuscript books, originally available at the Customs House Records Office (see ibid., II, 578-9), were removed to the P.R.O. at Kew, but at present are not available to readers.

with the constabulary.¹

Probably the most important factor for the number of arrests - as far as the scanty evidence indicates - was the individual enthusiasm of each constable, witness, and prosecutor. Some officers' names are regularly to be found in the sessions records, either as prosecutors or material witnesses. However, if the Custom House records are anything to go by, the conduct of others employed to maintain security was more akin to negligence and downright fraud.² Thus, in the early eighteenth century there was some laxity, as well as some careful policing. In the 1740s, merchants themselves became worried about their subjection to serious, well-organised crime, and there was a scare that the return of light-fingered soldiery after the War of Austrian Succession

¹P.R.O. (Kew), Notes and Extracts from the Minutes and Orders issued by the Commissioners of the Customs for the Instruction and Government of their Officers, 1 Sept. 1758-31 Dec. 1775. On 10 January 1772, West India merchants complained that watchmen neglected their duties. Colquhoun, River Police, op.cit., p.186, with the apparent statistical precision characteristic of his writings, feared that at least three hundred out of a thousand dockside watchmen were involved in criminal activity. For examples of watchmen convicted of theft at the Old Bailey Sessions, see O.B.S.P., 4-6, 8-9 Dec. 1741: the case of William Oliver; and ibid., 21-23 Oct. 1767: the case of Ephraim McDone. Pearson, op.cit., pp.4-19, treats the serious points of watchmen's negligence and corruption in a satirical manner.

²P.R.O. (Kew), Notes and Extracts... issued by the Commissioners of the Customs...', 20 March 1772; 10 Nov. 1774.

would lead to an outbreak of pilfering. That prompted the West India merchants to institute another force, the 'merchants' constables' in 1749.¹ Therefore, by one means or another, the docks had a considerable number of constables on guard, albeit answerable to a variety of different authorities.

Furthermore, the legislature had long before considered the problem of apprehension of criminals, but in a different way. Private citizens and even accomplices of criminals were encouraged to bring or assist in prosecutions by a system of compensations, immunities, and rewards. Under an Act of 1699, for each felon apprehended and prosecuted to conviction for stealing warehoused goods to the value of 5/- or more, the dutiful citizen was rewarded with a welcome 'Tyburn ticket'.² Conversely, constables and those self-appointed, notorious

¹Radzinowicz, op.cit., II, 354. In addition, The General Advertiser, 14 September 1750, mentioned that a 'subscription for carrying on prosecutions against the number of villains who have been concerned in robbing the merchants, by stealing goods from off the Keys, and from on board Ships, Lighters etc. is carried on with great spirit.' The merchants' constables and their immediate impact on petty appropriations and serious crimes in London's dockland seems to be a promising avenue for future study.

²See 10 and 11 Will. III, cap.23 (1699). The really big rewards of up to £40 for apprehension of a highwayman, under the Statute of 4 and 5 Will. and Mary, cap.8 (1692), were unlikely to come to wharfside inhabitants.

arbiters of the law - the thief-takers - could make a regular, though more modest, living from the pursuit of the many pilferers in the guise of rogues and vagabonds under Acts such as that of 1744.¹ The story of Jonathan Wild is well known, but he was not alone. William Payne, a so-called carpenter, appeared sixty-nine times between 1768 to 1771 at the Old Bailey sessions either as prosecutor or as material witness for an astonishing variety of cases.² Presumably he was prepared to run the gauntlet of the criminal fraternity, who despised those who lived by 'blood money'.

Payne and Wild's methods (and probably motives too) as thieftakers were as different as chalk and cheese. Wild was an organiser and manipulator of criminals, a receiver as well as a thief-taker general, while Payne seems to have been a cross between a preventive policeman and a bounty hunter. Another individual also played a busy role. Atkins Moore, described as a Constable by the Printed Proceedings of January 1730, successfully convicted

¹See 17 Geo. II, cap.5 (1744), An Act to amend and make more effectual the Laws relating to Rogues, Vagabonds, and Other idle and disorderly Persons, and to Houses of Correction.

²Payne appeared to give evidence at trials concerning theft, riot, receiving, being a Popish Priest, and keeping a brothel, among others: See O.B.S.P. (1768-71), esp. 12-14, 16-17 Jan. 1769 (the trial of Walter Webb) and 5-8 April 1769 (the trial of William Houten) for two cases involving the theft of silk handkerchiefs which give an insight into Payne's methods of detection and apprehension.

Andrew Scott and Mary Martin for the theft of a hundred-weight of sugar. The sessions records of August and October 1730 went on to describe Moore variously as a Porter and Bowyer of Tower Street. However the apprehension of dockside criminals was rewarding and Moore could not have been happy with this change of status. Encouraged by the successful conviction of two more felons before the year was out, he probably believed there was enough crime in the docks for him to make a full-time living from its pursuit. Indeed on one occasion, soon after his return to the constabulary in 1731 he presented Alderman Brocas with no fewer than eight pilferers in one day and made regular appearances at the Bridewell Court, giving testimony against petty offenders.¹

The eighteenth-century controls were diverse both in theory and practice. The presence of the dockside constabulary was in itself clearly intended to act as something of a deterrent. Constabulary testimony strongly suggests that they dealt with many more people during the normal course of their duties than were finally indicted. As already noted, a very large number of dockside pilferers found themselves spending time in the House of Correction.²

¹Ibid., 16-17, 19-20 Jan. 1730. See also Sessions Files, 26 and 28 Aug. 1730; 12 and 14 Oct. 1730; and Court Minutes, 15 July 1731. Moore's name appears regularly in this source from April-Oct. 1731.

²See above, pp. 60 - 62. Giving evidence at the Old Bailey in 1739 Joseph Crosier, a Customs House officer, reckoned there to be forty tobacco pilferers in the London Bridewell at that time. See O.B.S.P., 21-24 Feb. 1739.

But capture itself did not always lead a criminal even before the Mayor's summary jurisdiction. David Day, a constable prominent in mid-century records, implied that immediate recrimination against petty offenders was his more usual practice. In his testimony against John Farrow, who was taken at the beginning of February 1745 with 11 lb. of sugar, he said: 'I would have drubbed him with a hoop stick and sent him about his business; but he threatened us if we meddled with him.' So instead, for his belligerence, Farrow found himself, before the month was out, before the Old Bailey and sentenced to seven years transportation.¹ Not that deferential behaviour could always guarantee the meting out of this sharp shock treatment (which some offenders preferred), particularly if the appropriation was too large or habitual. Jeremiah Mascall, an officer who also patrolled the quays in the 1740s, said of one John Webb, who had tampered with a hogshead, but only taken 2 lb. of tobacco: 'My Lord he has been a thief these three or four years. He was once in Bridewell; and I have often corrected him with such a stick as this.'²

One important implication of a stop and search policy for bona fide workers on the docks and others was that

¹Ibid., 27-28 Feb. 1745.

²Ibid., 9-11 April 1746: on this occasion, Webb was found guilty.

they had to be able to justify their possession of goods, whether carried openly or concealed about their person. While officers may have gained some familiarity with those who used the quays in regular and legitimate pursuits, the extent of casual labour and seasonality of dockside occupations made it impossible to keep track, from one day to another, of those really working and those carrying out quasi-legal activities. Consequently, it became normal practice for officers to investigate the alibis of all those apprehended.

This was another grey area, giving much scope for controversy. For one thing, a normal alibi was that goods were given as a payment in kind for a service rendered; but that was not always guaranteed to be supported by the employer, because under certain circumstances it was not a practice that would be publicly condoned (although the fact that it was often claimed and investigated at all implies some scope for legitimacy). Or, secondly, possession of goods may have been obtained as an informal payment by a regular employee for subcontracting work, which would not have been recognised officially. There are other possibilities: whether given or taken, unknown to the employer, defendants often justified themselves by claiming that the goods were a reasonable or customary payment made for services rendered, or, alternatively, that the poor state of the goods made them worthless to anyone but themselves.

Whatever the stimuli that led to eventual prosecution - and there were many - it was mostly left to the casual labour force to attempt to explain the nuances of appropriation and payment to Old Bailey juries. For this type of worker, on the periphery and not within the mutuality of the regular gangs of workers, was the most easily expendable, the most easy to replace, and hence the most vulnerable.¹

What the Printed Proceedings do not say enough about, even by inference, is how peculations by regular employees were handled. That prosecutions of this nature are conspicuous, for much of the century, by an almost total absence is surely significant. And yet, as Patrick Colquhoun pointed out in his Treatise on the Commerce and Police of the River Thames (1800),² there must have been large-scale embezzlement. A new regulation of 1790 had totally prohibited perquisites, and yet gangsmen were hardly paupers. Hence he enquired:

From what source therefore, do the Emoluments of the Gangsmen arise? - They are said to receive several hundred pounds a year, and yet their wages are only 16s. or 18s. per week.

Gangsmen, described by a modern historian as 'the undoubted aristocracy of ticket porters, enjoying earnings and

¹See discussion in Chapter 5.

²Colquhoun, River Police, op.cit., p.80.

opportunities far in excess of those available to ordinary waterside porters',¹ were unlikely to work for such a small return without perks, especially in view of the fact that by 1800 fees to join some gangs could be as much as £200.² But it was very much in the employing merchants' interest to perpetuate the employment of such regular gangs, who by virtue of their organisational skills were preferable to ad hoc teams, who would be unfamiliar with the wharf, the warehouse, the commodity, and with the limits of acceptable speculation. The idea, then, that employers could control the taking of goods simply by using the sanction of dismissal, particularly during periods of high unemployment, is not as attractive as it first sounds, if applied to these key workers.

Certainly, however, the Printed Proceedings do suggest that a more precise method of controlling the appropriation of stock was developed in the late eighteenth century - that is, the alignment of responsibility for both the accountability of goods and the enforcement of security measures. Within the limits of the sources, it is impossible to say that accountability and security were not intimately related over a broad spectrum before the mid-eighteenth century. But the Printed Proceedings seem to suggest, not that this alignment was new, but

¹Stern, op.cit., pp.63-4.

²Ibid., p.64.

that it was becoming more closely understood on the docks. If there was a difference between the early part of the century and the later decades, especially from the 1780s onwards, then it was the willingness to see this alignment enforced by bringing more misappropriators to trial. Testifying in June 1785, in a case concerning 2½ lb. of cotton, Thomas Hunter, a 'merchants' watchman on the keys', told the Old Bailey that he was paid yearly and was 'accountable for anything that is lost'.¹ When asked if this meant that he paid for all deficiencies, he replied: 'We do not always, sometimes the merchants are favourable; but I have paid a great deal for losses and last year paid £160.' That, he went on to confirm, was part of his contractual obligation with his master. Another watchman of the quays, Morris Thomas, giving evidence four months later against John Clevoly for the theft of half a hundredweight of 'French plumbs' value 27/-, said he was not only answerable for all sorts of goods that are lost, but: 'I have paid a hundred pounds for deficiencies.'² With sums such as this at stake, prevention would seem of primary importance to the watchmen, and also make prosecution more likely, if it were seen to provide an effective deterrent towards achieving that end.

¹O.B.S.P., 29 June 1785.

²Ibid., 19 Oct. 1785.

Some of the positive steps taken by watchmen towards improving security also emerge from these legal cases. For example, footpaths, that were left clear during the day to allow access to casks, were obstructed at night by a series of hurdles so that intruders could be heard. Many cases additionally demonstrated that there was a degree of reciprocity between watchmen, and it was not unusual for them to go to each other's aid to make arrests.¹ Furthermore, according to Customs House records from 1770, they were to be furnished with cutlasses when necessary, 'in order to prevent in future the frequent and daring attempts of the robbers, which infest the River.'²

In evaluating the evidence, however, it is relevant to ask whether a contractual system, tantamount to payment by results, engendered a more authoritative and business-like approach by some of the watch or simply made them more litigious. A proper answer to this cannot be made without a fuller understanding of whether rewards were being paid for successful convictions (as they certainly were in the 1740s) and without clarifying the relationship

¹See ibid., 19, 21-22, 24-25 Oct. 1774: the case of William Ward and ibid., 23 May 1787: the case of John Burn. For watchmen going to each other's assistance, see ibid., 3-6 July 1751: the case of Isaac Odeway.

²P.R.O. (Kew), Notes and Extracts... issued by the Commissioners of the Customs..., 2 March 1770.

between the constabulary and the watch. Watchmen on the quays were normally employed by wharfingers or merchants, and, although it would seem likely that close links with the constabulary were in everyone's interest (except for pilferers), only in one case was the relationship between a merchants' watchman and the merchants' constables made explicit. That was when one William Ward, a watchman at Botolph's Wharf, described Barnabus Linton, a constable for the West India merchants, as his 'supervisor'.¹ No further details were vouchsafed. The inference, however, from many cases was that the watch needed quick access to the constabulary and they therefore needed to work very much in concert, so that suspects could be restrained, detained, searched, dealt with as night charges, or taken before a magistrate.

The evidence of the Printed Proceedings puts paid to the caricature of the watchmen - on the waterfront at any rate - as all old, inefficient, and corrupt, but instead it suggests that the watch covered an extremely broad spectrum. At one end, there were those like Thomas Hunter, who rose from the watch to become a constable in the 1790s,² but much of the spectrum was made up of

¹O.B.S.P., 13-14, 16-17 Jan. 1764.

²See ibid., 29 June 1785: the case of James Dunlop; and ibid., 7 Dec. 1791: the case of William Rogers, where Hunter is referred to as a 'Constable to the West India Merchants'.

men working on a more casual and temporary basis, without the security or stimulus of a formal contractual agreement. There was the ship's crew, who were simply taking their turn to look after the boat in dock. On board some craft, an apprentice was often left responsible. Indeed, in a case of January 1771 when John Glover stood accused of stealing 9 firkins of butter, a witness for the defendant made much of the fact that the watchman was only a boy. John Hamar, a lighterman, who spoke for the prisoner, claimed that Edward Grey (aged 14) was not only mistaken in his testimony but also too young to understand what an oath or a lie was. However, Grey's evidence was supported by others in the ship's crew, who responded to the alarm, and Glover found himself sentenced to death.¹

For some, keeping watch was work in addition to other employment: William May, for instance, used to strip tobacco on the quay as he acted as watchman.² Others were watermen by day; and one, Alexander Lockart, giving testimony at a trial in 1772, described himself as a watchman at Brewer's Quay, Galley Quay, or 'wherever I can get employment'.³ Watermen were, however, in a

¹Ibid., 16-19 Jan. 1771. For more on the complexities of children taking oaths, see Beattie, Crime and the Courts, pp.128-9.

²O.B.S.P., 17-18, 20 Jan. 1746.

³Ibid., 29-30 April and 1-2, 4-8 May 1772: the case of John Reeves.

good position to detect nefarious activities both on the River and the quayside. In any case, as James Harrup explained in 1767, there was a need to ensure that their own boats were not stolen at night, consequently a watch rota was organised.¹ One William Ellen was also a watchman-cum-waterman. Giving evidence in April 1765, Ellen clearly used his testimony as an opportunity to make himself appear heroic. He described how, singlehandedly with only a broken mopstick, he apprehended a man stealing a barrel of oil, because nobody would come to his aid despite his cries of 'thieves, fire and the like'. It seemed, however, that local opinion viewed his actions as over-officious, preferring to call him a 'thief-catcher'.²

How many watchmen, at either end of the spectrum, turned a blind eye or participated in illicit activities themselves, is impossible to measure. Colquhoun, writing at the turn of the century, believed that they were an integral part of corruption on the dockside, calling them 'faithless guardians of the night'.³ However, because few watchmen admitted to taking bribes and also because of the changing interpretation and attitudes towards perquisites (discussed in Chapter 5) only a handful of such cases reached the

¹Ibid., 9-12, 14 Dec. 1767: the case of Charles Holliday.

²Ibid., 17-20 April 1765: the case of John Randall.

³Colquhoun, Police, p.221.

Old Bailey. Even so, the financial rewards for connivance must sometimes have been tempting. In November 1771 one would-be pilferer, Thomas Shewel, mistakenly believed he had made an arrangement with a merchants' watchman, John Butler, to bring goods on shore at night. Although Shewel promised him 'if you don't take notice, I will tip you something', Butler was not sufficiently tempted and later seized Shewel in the act. Yet earlier in the sessions the same watchman was chastised by the Old Bailey Judge for accepting 1/- to turn a blind eye to men taking raisins ashore from the ship Betsey.¹ Another case showed that rewards could be greater. One Gregory, a watchman at Execution Dock, had received 3/- in January 1748, for looking after four stolen sacks of beans for only a quarter of an hour.²

With such diversity of men and motives, the variation in watchmen's abilities and sympathies towards wharfside work practices would have made it by no means certain that labourers could always claim their customary rights without dispute. Watchmen may not have had the same powers, either legal or physical, as a constable to detain these men, but they could be effective in raising an

¹O.B.S.P., 9-11 Dec. 1771: the case of Thomas Shewel; and contrast ibid., 4-7 Dec. 1771: the case of Lewis Humphreys and Duncan Hardy.

²Ibid., 15-16, 18 Jan. 1748: the case of William Hoare, Thomas Fazakerly, and Robert Dunn.

alarm, and devastating in their courtroom testimony as a material witness. However, on a day to day basis, the watchmen looking out for embezzlement on the London wharfs were fighting a losing battle. Hogsheads were piled high, and a myriad of people had access to the docks, their buildings, and the lighters, as Illustration 3 clearly reveals.¹ Indeed, a number of cases, particularly after 1750, suggest that it became customary to search employees as they left a ship or wharfside premises,² but it is difficult, of course, to know how effectively this was carried out.

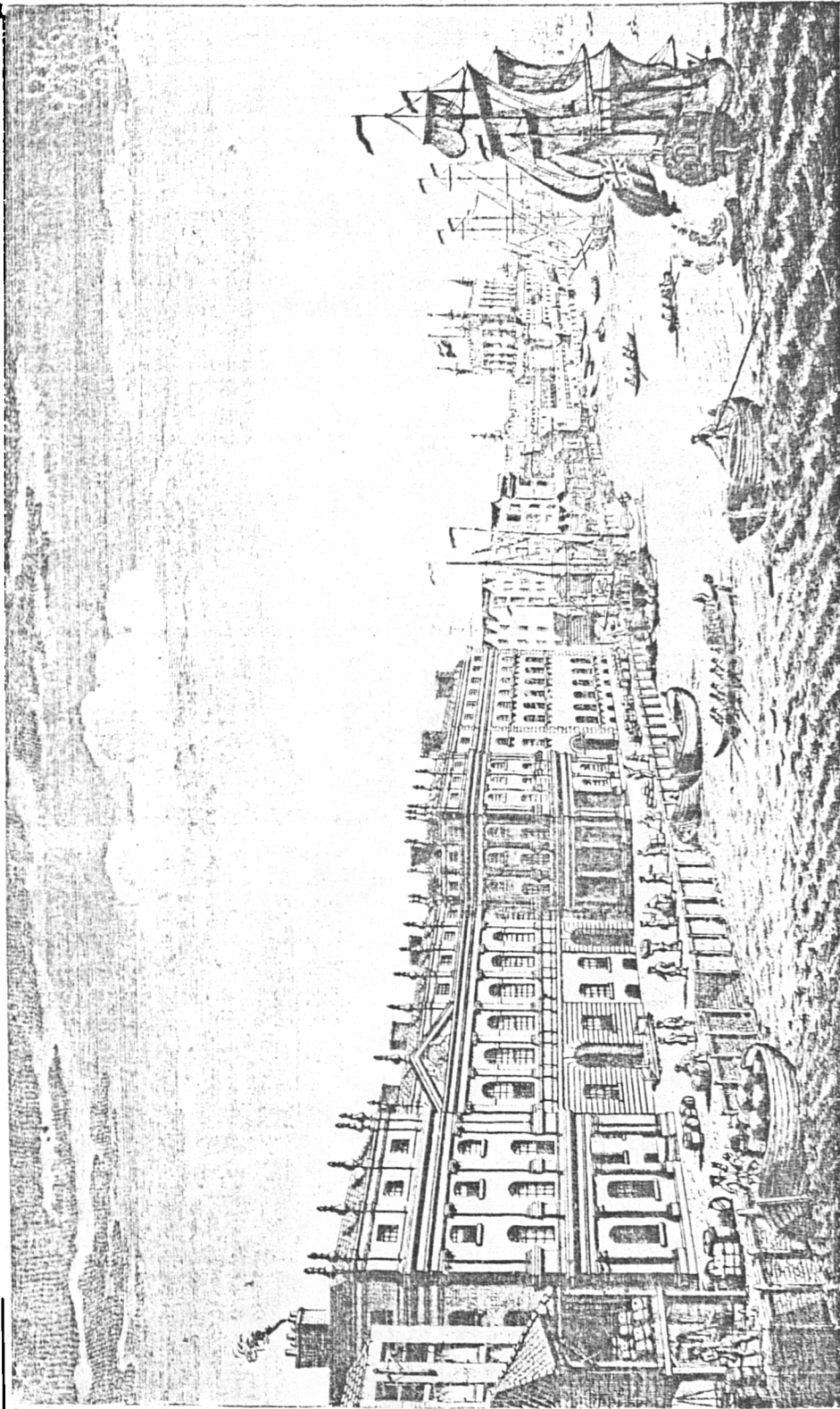
As the century progressed and trade increased, so did the general problems of congestion and control on the quays. Small wonder, then, that eventually the real developments in security were made in the more easily-controlled environments of the ships and the warehouses. But that was very much a development for the future, and absolute security in the docks has never been satisfactorily achieved, as goods in transit are by definition vulnerable.

All the complexities already examined - at all stages in the long sequence of events from detection to

¹ 'A View of the Custom House, after J. Maurer' (mid.C18) in Landmarks of the City of London (Guildhall Publications), op.cit., fo. 7.

² See, for example, O.S.P., 11-14, 16 Dec. 1765: the case of John Frankland; or 14 Sept. 1785: the case of James Miller.

ILLUSTRATION 3. Bowles's Engraving: A View of the Custom House... London (mid C.18).



A View of the Custom House with part of the Tower, taken from the River. | Vue de la Douane et une partie de la Tour, prise de la Rivière.
Thomas Bowles
 London: Printed and Sold by T. Bowles, at the Sign of the Anchor, in St. Dunstons Church-yard, at the Corner of White-church-lane, 1787.

prosecution - show that the system contained many loopholes and deficiencies. The eventually-derived statistics of dockside criminal offences before the courts therefore have to be treated with great circumspection. They certainly do not provide an overview of all such crimes. Indeed, recent studies of crime have stressed that the interpretation of statistical information is fraught with difficulties.¹ As already noted, Colquhoun suggested that 90% of crime went undetected or unreported - as good a 'dark figure' as any modern estimate.² Another problem, which is seemingly impossible to resolve, therefore is the question whether the people, who got to court, were a valid sample of those, who committed crime, or were they an unlucky, incompetent, and therefore untypical 10%? If they were a valid sample, that would imply that

¹See Hay, in 'War, Dearth and Theft', op.cit., and for some interesting ideas on the disparity between contemporary concern and statistics, see Curtis, op.cit., pp.118-20. On the pitfalls of using statistics, see particularly, Sharpe, in Social History, op.cit., and J. Beattie, 'The Pattern of Crime in England, 1660-1800', Past and Present, 62 (1974), esp. pp.75-95. On interpreting the fluctuations in statistics see J.A. Sharpe, Crime in Early Modern England, 1550-1750 (1984), pp.41-72; V.A.C. Gatrell and T.B. Hadden, 'Criminal Statistics and their Interpretation', in E.A. Wrigley (ed.), Nineteenth Century Society: Essays in the use of Quantitative Methods for the Study of Social Data (Cambridge, 1972), pp.336-96 and Beattie, Crime and the Courts, pp.199-264.

²Colquhoun, Police (1796 edn.), p.31. For further comments on the 'dark figure' of crime, see Sharpe, Crime in Early Modern England, 1550-1750, p.44; Ditton, Controlology, pp.17-24 and Gatrell and Hadden, op.cit., p.350.

the ratio between recorded crime and all crime would either be a constant or change in an intelligible manner. However, it is improbable that the eighteenth-century legal system was able to respond, as if by magic, in direct and constant proportion to fluctuations in criminal activity. Indeed, it was more likely to reflect variations in prosecutorial activity.

Ruling out the idea of a constant, it is still possible to examine the statistics (such as they are) in the light of some of the more determinable trends of the eighteenth century. One important correlation is that between the number of prosecutions and the changing attitudes of prosecutors. The attitudes of the London merchants and wharfingers and His Majesty's Customs may be surmised from the action they took to counter the activities of pilferers. As already noted, in 1711, in cooperation with the West India merchants, H.M. Customs and Excise appointed officers to patrol the wharves. Their wage of 10/- per week was supplemented by a reward of 5/- for each successful apprehension and prosecution. Nonetheless, if that hefty incentive to constables to bring in pilferers worked even for a short time, it was not positively reflected in the number of people presented at the Bridewell accused of dockside crime. The lack of detail in the early Bridewell Court Minutes until mid-1713, which makes categorisation impossible, probably accounts for this, although a different, as yet undiscovered,

channel of justice working through the Custom House cannot be ruled out.

Graph 1 shows the often-extensive fluctuations in the number of cases recorded annually in the Bridewell minutes.¹ The dockside cases also showed marked variations from year to year, with notable peaks of prosecutions in the years 1731-50. By calculating the number of accused in each Mayoral year, as opposed to the calendar year, it is possible to establish when certain of the City magistracy particularly encouraged the use of the Bridewell as a repository for dockside offenders, as indicated in Table 5. Before 1741 (when officially all Aldermen were constituted J.P.s and the number of men involved became large) the brunt of committing was taken by senior Aldermen and Lord Mayors past and present. That makes the existence of links between an individual magistrate's policy and the total number of prosecutions more than possible, but likely. For example, the boom in dockside cases (and all cases, for that matter, as shown in Graph 1) received at the Bridewell in 1731

¹For a discussion of the varying reliability of this source, see Chapter 2, above. It should be remembered that after 1741 inmate prisoners were numbered. Between 1741 and 1752 there are few gaps in this enumeration, making the source most reliable for this period.

GRAPH 1. PRISONERS BEFORE THE LONDON BRIDEWELL COURT, 1696-1772

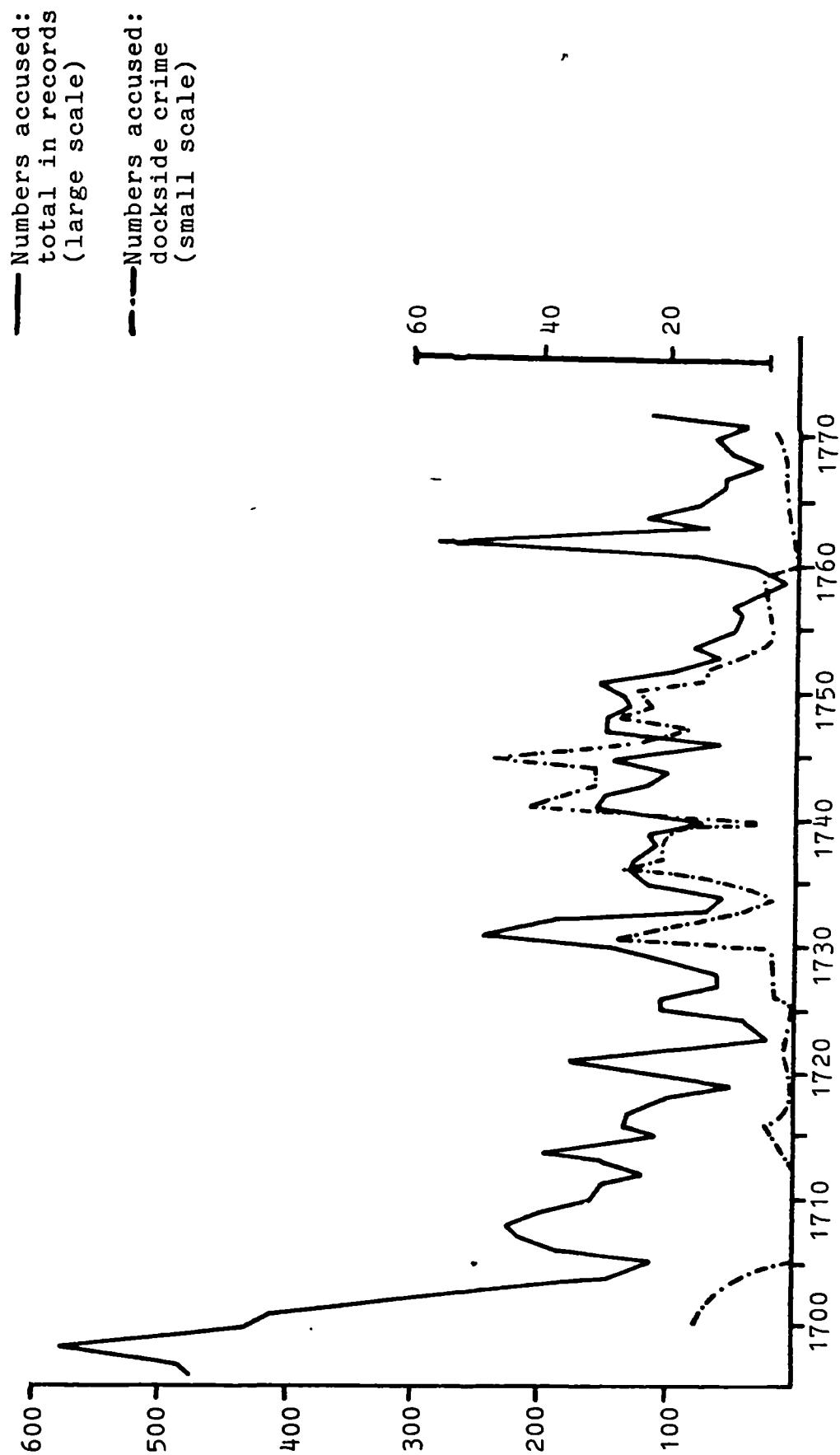


TABLE 5. DOCKSIDE CASES BEFORE THE BRIDEWELL COURT PER MAYORAL
YEAR, 1725-56¹

Mayoral Year	Mayor	Number of Cases	Main Committing Magistrate (no. in brackets)	President of Bridewell
1725-26	Forbes	2		Humphrey Parsons
1726-27	Eyles	3	Marttens (3)	
1727-28	Becher	2		
1728-29	Baylis	4		
1729-30	Brocas	3	Billers (3)	
1730-31	Parsons	19	Brocas (14)	
1731-32	Child	13	" (13)	
1732-33	Barber	9	" (8)	
1733-34	Billers	8	" (8)	
1734-35	Bellamy	5	" (5)	
1735-36	Williams	14	" (14)	
1736-37	Thompson	21	" (21)	
1737-38	Barnard	28	Barnard (14)	
1738-39	Perry	13	Perry (10)	
1739-40	Salter	8		Robert Willimott
1740-41	Parsons/ Lambert	27		
1741-42	Godshall	35		
1742-43	Heathcote/ Willimott	31	Willimott (13)	
1743-44	Westley	28		
1744-45	Marshall	34		
1745-46	Hoare	31	Hoare (10)	
1746-47	Benn	16		
1747-48	Ladbroke	27	Ladbroke (23)	
1748-49	Calvert	18		
1749-50	Pennant	19		
1750-51	Blachford/ Cockayne	29	Cockayne (14)	
1751-52	Winterbottom	16		William Benn
1752-53	Alsop/ Gascoyne	16		
1753-54	Ironside/ Rawlinson	3		
1754-55	Janssen	2		
1755-56	Bethell	0		

SOURCE: Bridewell Court Minutes, 1725-56; Beaven, op.cit., II, 123-30.

Note: 1. The Mayoral year in London commenced in November.

coincided with the Mayoralty of Humphrey Parsons.¹ That seems more than just fortuitous. Parsons had been President of the Bridewell since 1725 and, leading by example as the Mansion House Charge Book of 1728-33 also testifies, he doubled the average number of people appearing in each court from sixteen (the figure for 1729-30) to thirty-two the following year. In other words, it seems likely that Parsons had a preference for using the Bridewell as a means of treating petty offenders.

This revitalisation of the Bridewell's use had a positive effect, particularly upon the dockside constabulary. Parsons's action had helped to spawn a whole generation of officers, educated in the potential of the Bridewell. It was largely their activities and perhaps persistence, which therefore was one of the chief influences in the rise and fall in prosecutions, that reached a peak in 1745. However, the Mayoralty and magistracy also played their part. Sir Richard Brocas, in the seven years after

¹For Parsons, see note in Dictionary of National Biography; A. Beaven, The Aldermen of the City of London (1913), II, 196; and Gentleman's Magazine, XI (1741), p.164 (his obituary). Parsons was President of the Bridewell from 1725-41 and was Mayor twice (1730-1 and 1740-1) but died before completing his second term in early 1741. Other Mayors connected with the Bridewell during this period were Robert Willimott (Mayor 1742-3, President 1741-6), William Benn (Mayor 1746-7, President 1747-55), Robert Alsop (Mayor 1752, Treasurer 1750-5) and Richard Glyn (Mayor 1758-9, President 1755-73).

his mayoralty, made himself so accessible to prosecutors that he committed fully 83 out of 89 dockside offenders between 1731-37. By 1738 then, a year which saw the election to the Mayoralty of Sir John Barnard, a Quaker interested in suppressing mendicity and promoting policing, the constabulary had already been primed.¹ Consequently, the clear peak of committals in 1738 illustrates that the constabulary were sufficiently prepared to respond positively to greater pressures to prosecute.

Graph 1 clearly shows that within the period 1730-60, the busiest period of constabulary activity on the docks was the first half of the 1740s. Advances in constabulary methods and organisation cannot be discounted as factors contributing to this rise. Additionally, this increase in committals may have been prompted by developments in judicial procedure. Vagrancy Acts of 1740 and 1744 promised a reward of 10/- to constables for every petty offender committed to a House of Correction.² The initial

¹For Sir John Barnard, see note in Dictionary of National Biography; City Corporation, City Biography, containing Anecdotes and Memoirs of the Rise, Progress, Situation and Character of the Aldermen and other Conspicuous Personages of the Corporation and City of London (2nd edn., 1800), pp.170-72. Barnard was also an M.P. for the City of London and an authority on commerce and finance. See Beaven, op.cit., II,196. In 1742 he sponsored a Bill calling for the better protecting and securing the trade of the Kingdom in time of war. See G. Rudé, Hanoverian London, 1714-1808 (1971), p.155. On Barnard generally, also see A.S. Turberville, English Men and Manners in the Eighteenth Century (Oxford, 1926), p.130.

²See 13 Geo. II, cap.24 (1740), and 17 Geo. II, cap.5 (1744), clause 5.

enthusiasm of Aldermen exercising their powers as J.P.s after 1741 may also have played a part; certainly the analysis of dockside committals after that date show that it became less usual for one magistrate or the Mayor to bear the brunt of committal proceedings as had been the case in the 1730s. However, the influence of individual magistrates is still visible after 1741. In June of that year, Robert Willimott, a senior Alderman, later to become Lord Mayor in 1742 was elected as President of the Bridewell. During his Presidency, which lasted until his death in December 1746, committals of dockside offenders reached their peak both in absolute terms and in relation to all recorded cases.

The legal records, however, give no direct indication of the motivation of magistrates in making committals. Like Humphrey Parsons before him, it would not be unreasonable to suppose that Willimott would have been conscious in his Magistracy of his other position of authority and responsibility as Bridewell President. Some caution, however, is needed in assessing the motivation of other Aldermen working in this role. The sway of Micajah Perry, the famous tobacco merchant,¹ who was

¹On his commercial interests, see E. Dounan, 'Eighteenth-century Merchants: Micajah Perry', Journal of Economic and Business History, IV (1931-3), esp. 70-74, 89-91. Another Lord Mayor, Sir Samuel Pennant (1749-50), had interests in another major dockside commodity - sugar - and was himself the victim of theft: see Sessions Files, 11 Oct. 1749.

a senior Alderman in 1738, may have been significant in making Barnard's mayoralty a peak year for committals. During his own mayoralty in the following year committals were, however, low, at a time when Perry would have been in a good position to exercise his influence in this sphere. Perry was not the only example of a merchant, who was a potentially interested party, but also acted as magistrate and prosecutor.

In general, London merchants resigned themselves to what was evidently a continual struggle against depredations on the wharfside. Most successful city businessmen (and it was men from this group, who commonly became Mayor) had an interest in trade and therefore the docks.¹ The wealth and power of merchants of all political groups and parties² was dependent upon a basic framework of security for the circulation of commerce. Another campaign to control dockside crime started in 1749. Merchants, wharfingers, and lightermen were the main contributors to a subscription, to fund the group of

¹For the business interests of the eighteenth-century London Mayoralty, see brief comment in Rudé, op.cit., pp.52-3. Beaven, op.cit., II, 124-29, also shows that William Billers and John Salter were directors of the East India Company, and that John Thompson, George Heathcote and John Williams were directors of the South Sea Company. All also became Mayors of the City of London.

²On political affiliation and its meaning see inter alia, Rudé, op.cit., pp.143-61; and J. Brewer, Party Ideology and Popular Politics at the Accession of George III (Cambridge, 1976), pp.39-44.

officers known as the 'merchants' constables'. That followed a successful newspaper campaign by Alderman Bethel.¹ The advent of these constables may account for the small increase in prosecutions in 1750, and perhaps the subsequent decline in following years-also pilferers may have been discouraged by the constabulary's presence in new force. After 1753, however, the paucity of the Court records prohibits further detailed enquiry. Certainly, the surge in prosecutions appeared to be only short-lived. An M.P., writing in 1756, claimed that normal thieving had resumed as soon as the £1100 subscription had run out.² In that case, the paucity of recorded cases concealed the extent of actual crimes committed.

The campaign of 1749 onwards may well have been directed particularly towards the apprehension of the more daring

¹ Alderman - as he was then - Bethell was the treasurer of the merchants' constables: see Phillips, op.cit., pp.39-40, for details of how the newspaper campaign won support for the cause. This specific movement towards wharfside control coincided (perhaps not fortuitously?) with a generally-increasing interest in crime prevention, sparked off by an increase in crime after the War of Austrian Succession. Concern was voiced by Fielding's Enquiry (Jan. 1750) and a Parliamentary Committee (Feb.-June 1751). For further details of these see J.M. Beattie, 'Crime and the Courts in Surrey, 1736-1753' in Cockburn (ed.), op.cit., pp.155-6.

² The fund was exhausted by 1756: see Anon, Further Observations on the Buyers or Receivers of Stolen Goods, particularly of Lead, Iron, Copper, Brass, Bell-Metal and Solder... by a Member of Parliament (1756), p.2. The identity of its author is unknown.

villains. That may have been in order to justify itself to its subscribers. Certainly, when William Escote, the leader of a large gang of thieves, was caught and sentenced in 1750, the story enjoyed a great deal of favourable publicity.¹ Briefly therefore, and backed by legislation of 1751 to 'prevent robberies on any navigable river',² the new constabulary did achieve a temporary increase in the number of dockside cases heard at the Old Bailey in the early 1750s. But that too was not long sustained.

The complexities in the saga of detection and prosecution certainly meant that statistics of criminals sent to Bridewell or for trial before the Old Bailey were influenced by many diverse factors. They did not rise and fall simply with (say) the price of bread or beer. Correlations between economic indices, themselves racked with problems of quantification, and criminal statistics must be proffered with caution. The Schumpeter-Gilboy index, based on prices paid by institutions for a variety of

¹See variously O.B.S.P., 12-15, 17-19 Sept. 1750; The General Advertiser, 25 Aug. 1750 and 14 Sept. 1750. Also see Phillips, op.cit., pp.39-40.

²See 24 Geo.II, cap.45 (1751), An Act for the more effectual preventing of Robberies and Thefts upon any Navigable Rivers, Ports of Entry or Discharge, Wharfs and Keys adjacent. Also 24 Geo. II, cap.8 (1751), An Act for the better carrying on and regulating the Navigation of the Rivers Thames and Isis from the City of London Westward, to the town of Cucklade in the County of Wilts, esp. Clause which gives details of punishments against thefts by bargemen and of the rewards payable to informers.

goods, reflects wholesale rather than retail prices, which dulls its sensitivity to real price changes.¹

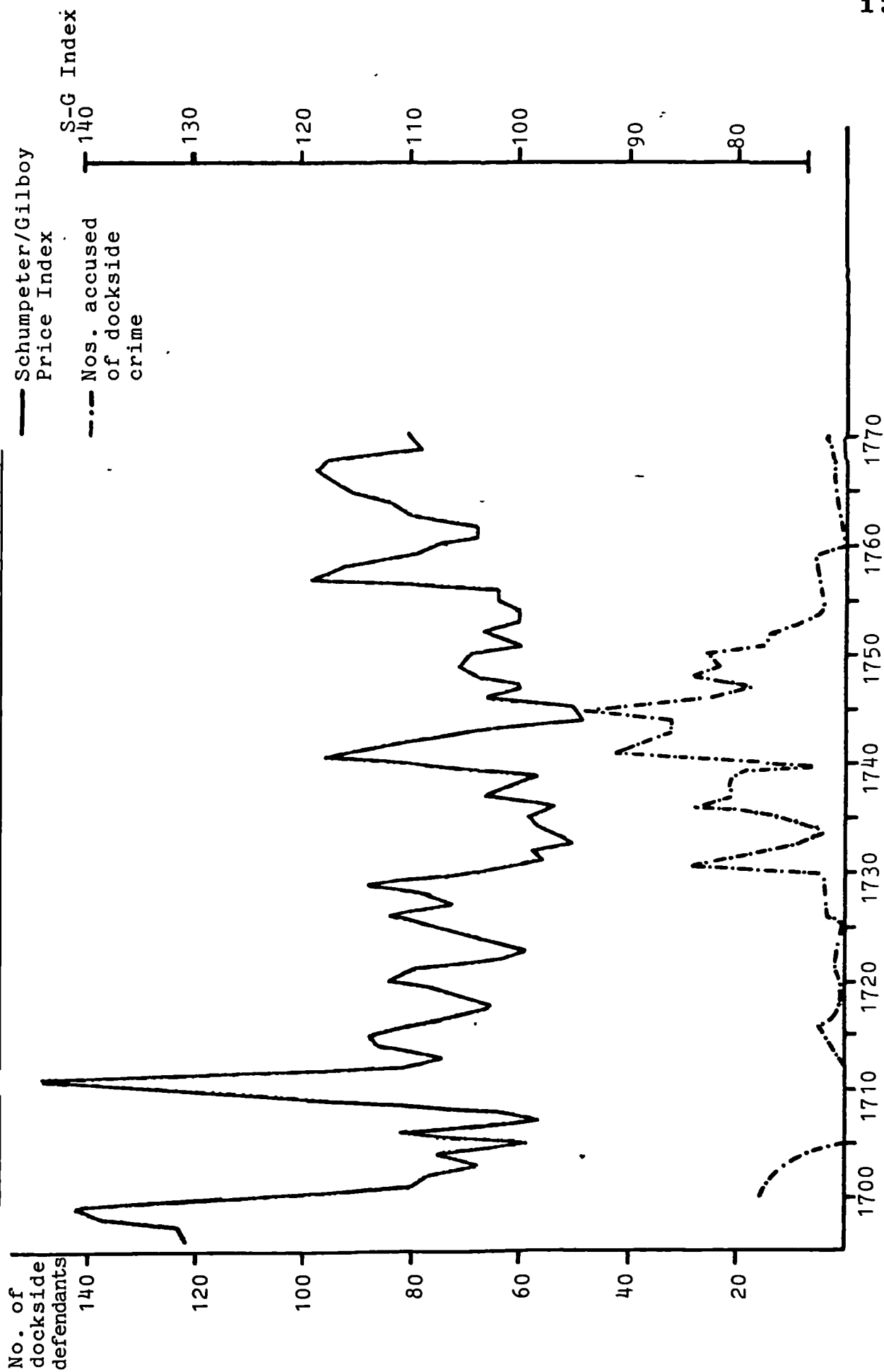
Indeed, as the absence of food riots in the eighteenth-century metropolis suggests, the London food market was generally protected, as it was kept well supplied and fluctuations prevalent in the countryside may have been kept at bay.²

With due caution, Graph 2 suggests that often an annual increase in the cost of living was accompanied by a fall - not a rise - in the total number of dockside pilfering cases brought to the Bridewell. Certainly, cases did not instantly soar whenever prices rose. That may have been the result of a more compassionate approach from prosecutors and/or magistrates during years of hardship, but again there is little guidance from the legal records, which very rarely mention the social context of the accused (poverty or otherwise) - nor the motivation of the magistrates. Or it may well be simply that the range of factors influencing the number of pilfering cases brought before the Bridewell was so extensive that it could not be encapsulated into one formula.

¹B.R. Mitchell and P. Deane, Abstract of British Historical Statistics (1962), pp.468-9. Beattie, op.cit., in Past and Present, 88, and more recently in Crime and the Courts, p.207, has given useful critiques of using the Schumpeter-Gilboy index for these purposes.

²J. Stevenson, Popular Disturbances in England, 1700-1800 (1979), pp.99-100.

GRAPH 2. DOCKSIDE PILFERERS AND PRICE INDEX, 1696-1772



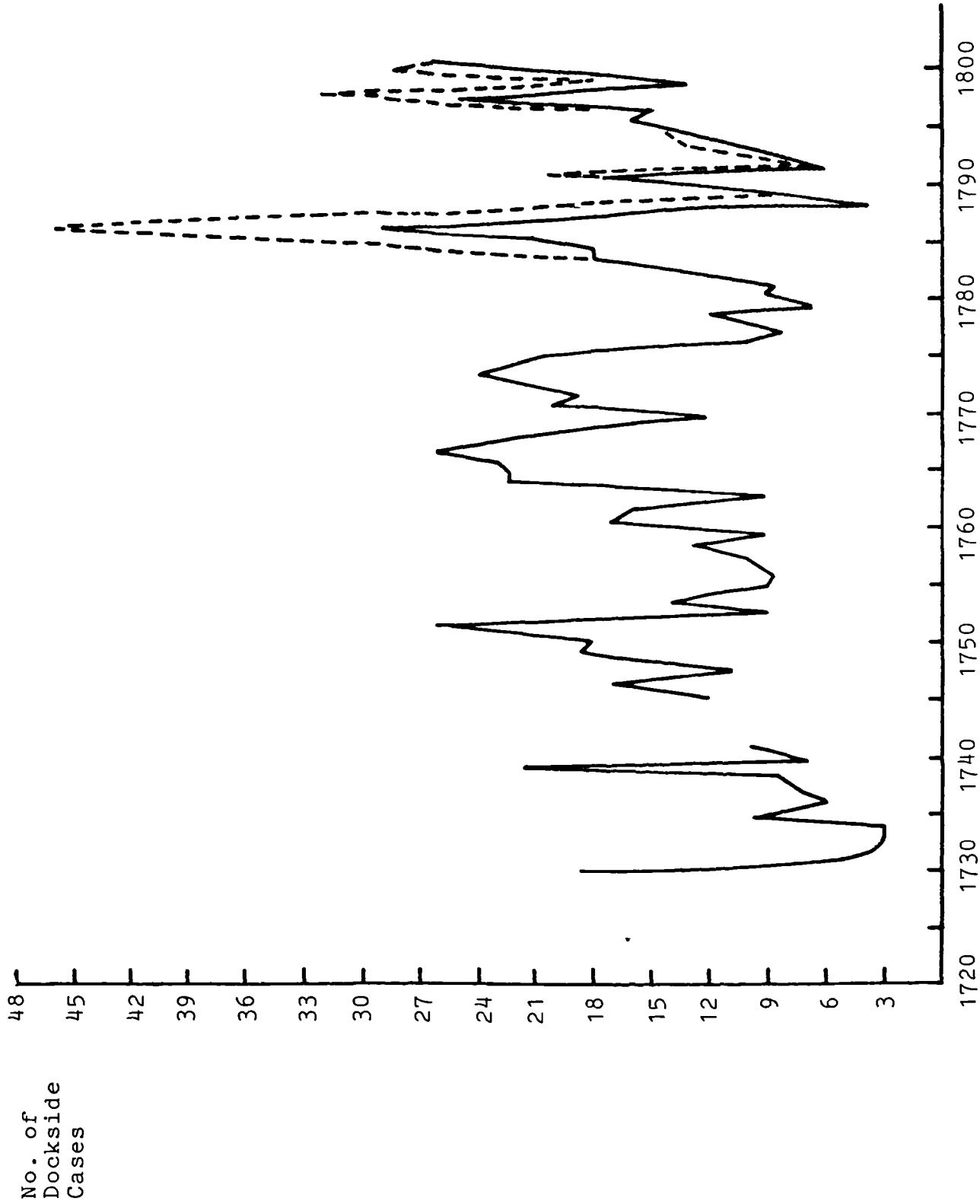
Similar problems arise with close scrutiny of the Old Bailey records. Graph 3 shows the number of dockside cases at the Old Bailey between 1730-1800.¹ These statistics are presented in an unrefined form. They encompass guilty verdicts and acquittals as well as offences as disparate as thefts of a pound or so of sugar or tobacco worth only a few pence, to highly organised appropriations of goods valued at £20 or more. In this form, the figures tend to show more about prosecutorial trends than about the nature and incidence of crime. Increases in the number of prosecutions tally well with the founding of the merchants' constables in 1749 and their ensuing brief purge on dockside crime. However, the punitive Acts passed in 1751 and 1763, designed to clamp down on riverside thefts,² made little impression on the Old Bailey Statistics. There were, as Colquhoun lamented in 1800, no prosecutions under the Bumboat Act of 1763 until the 1770s, 'perhaps', as he suggested, 'from the circumstance of its being a Local Statute'.³ Neither did prosecutors rush to use the more general legislation

¹The printed proceedings for the period October 1741-December 1744 were incomplete in the Guildhall Library collection. For further details, see the note on the source to Table 4 in Chapter 3, above. The figures for 1783-1800 are divided into definite offences and, where the records are ambiguous, possible offences. Unlike the Bridewell figures these statistics are derived from the published proceedings of courts which sat regularly eight times a year throughout this whole period.

²24 Geo. II, cap.45 (1751) and 2 Geo. III, cap.28 (1763).

³Colquhoun, River Police, p.43.

GRAPH 3. CASES OF DOCKSIDE CRIME AT THE OLD BAILEY, 1730-1800



¹For an explanation of these terms see the notes to Table 4, p. 98

of 1751; indeed the level of prosecutions for the 1750s was lower than both the preceding and following decades.

All in all, a purely economic determinism would be misleading. There are no grounds for thinking that eighteenth-century prosecutors and perhaps criminals were motivated purely by fluctuations in the price index. Other factors, such as the disposable value of the diverse and varied commodities in the docks, clearly had an influence. In the study of wharfside crime, attention is strongly drawn to the importance of tobacco. That was - if prosecutions can be taken as representative of unrecorded crime - the most commonly-pilfered item. It was a commodity that was much in demand, as tobacco had, by the end of the seventeenth century, become a necessity. In addition, its attraction to the would-be thief was enhanced by the ease with which it could be divided, distributed, and consumed in London's dockside parishes.¹

¹On the demand and price of tobacco, see R.C. Nash, 'The English and Scottish Tobacco Trades in the Seventeenth and Eighteenth Centuries: Legal and Illegal Trade', Economic History Review, XXXV (1982), 368-9. The records are not sufficiently complete to confirm or refute the suggestion that there is a concordance between the imposition of extra duties or an increase in the cost of supply and the number of tobacco pilfering cases. Joseph Crosier, the Customs House Officer, claimed to have taken 3000 lbs. of tobacco from offenders in the course of his career as constable: see O.B.S.P., 21-4 Feb. 1739. For further details of tobacco appropriations, see discussion below in Chapter 5.

Another key variable affecting the life of the London docks was the incidence of war. That had a number of ramifications.¹ It disrupted trade but pushed up prices of some commodities. It also took some manpower from the docks, but probably increased turnover of labour. The advent of war does not seem, however, to have had in itself a dramatic effect upon the legal record, again as far as can be judged from the imperfect information afforded by the Court Minutes and Printed Proceedings for the whole period. At such times, prosecutions were at lower levels than at the end of wars, arguably because many potential dockside offenders - younger, able-bodied males especially - found themselves drawn into the fighting either by impressment or at the suggestion of a magistrate in lieu of proceeding with a prosecution. In the 1740s, there seems, however, to have been some correlation between a foreign war and an increase in the number of dockside offenders at the London Bridewell. However, whether that was due to an increase in the amount of crime or the vigilance of the constabulary is open to debate.

¹For ideas on war and crimes against property, see Beattie, Crime and the Courts, pp.213-34. Hay in Past and Present, op.cit., 139-45, has argued that war and demobilisation had a special impact upon London, especially its East End. The suggestion that because more daring villains were abroad during times of war, these are probably periods when petty offences (now more likely to be stimulated by want) may correlate well with price increases, is not, however, upheld by the records studied here (see Graph 2).

Other periods of warfare such as 1756-63, or 1775-83, do not show marked increases in prosecutions.

Indeed, it may be that the immediate impact of peace had a more dramatic effect, as a number of demobilised soldiers and sailors were suddenly released into the labour market.¹ Clear peaks in prosecutions in the early 1760s and early 1780s suggest a correlation between the end of warfare, the influx of demobilised soldiery on London's wharfsides and theft. Soldiers sometimes sought casual labour on the quays and were often claimed to be responsible for minor appropriations.² That the peak for 1749-50 is not so clearly reflected by the Bridwell records (see Graph 1) adds credibility to the notion that the merchants' campaign, organised by Alderman Bethell, was aimed primarily at combatting grand rather than petty larcenists.

Whether correlations between social and economic data and the statistics of crime can be meaningful, remains a matter of controversy. Economic historians have recently pointed to the weaknesses of price and wage

¹Ibid., pp.139-43.

²See for example, O.B.S.P., 13-14 Jan. 1758; and a series of cases in 1798-9. Beattie, Crime and the Courts, pp.216-23, suggests that the onset of peace revitalised the London Newspapers' interest in reporting crime, creating an atmosphere likely to produce more prosecutions.

indices.¹ Meanwhile, because it is impossible to determine the 'dark figure', criminologists must remain uncertain that changing levels of prosecutions clearly reflect changes in criminal behaviour. Therefore, these sources cannot, for example, provide incontrovertible proof that those most likely to be affected by economic factors (the poor) necessarily committed the types of petty offences most likely to be responses to want or destitution in times of dearth.

Similarly, it is far from clear that the statistics of crime simply reflected the various systems of control, such as the introduction of punitive legislation, merchants' campaigns, or increases in numbers of wharfside constables. It cannot be proved that any of these necessarily brought greater efficiency,² that is if efficiency is simply equated with numbers of prosecutions, or fewer appropriations. Contemporary claims certainly do not suggest that the problems had been solved or even abated for long. Additionally, because fluctuations may be attributed to a variety or combination of other key variables such as demobilisation at the end of a

¹E.A. Wrigley and R.S. Schofield, The Population History of England, 1541-1871: A Reconstruction (1981), pp.312-13, 638-41.

²J. Styles, 'Sir John Fielding and the Problem of Criminal Investigation in Eighteenth-Century England', Transactions of the Royal Historical Society, 5th series, XXXIII (1983), 147, warns of the danger of gauging efficiency, by counting officials: 'More did not necessarily mean better'.

war, newspaper reporting, magisterial changes, or the changing attitudes of prosecutors, correlations become even more complex.¹

Equally important, controls on criminal behaviour on London's quayside also worked through channels of justice which produced no indictments, or indeed no formal documentation whatsoever. As had already been argued, many cases of petty pilfering were dealt with under summary jurisdiction and, if Old Bailey testimony is to be believed, an indeterminable number of offenders were summarily chastised. The imposition of control then, which, as already noted, greatly depended on the detective skills, vigour, and discretion of constables and watchmen, would not necessarily be shown in the eventually-derived statistics of crime (and certainly not solely in indictments).

However, the available sources do not just proffer data on criminality which may only be presented in a quantitative format. The Printed Proceedings of the Old Bailey, which often published testimony at length, have proved particularly valuable, for providing qualitative evidence to assist in understanding the behaviour and motives

¹ A small change in the attitudes of prosecutors could, it has been argued, create a large change in the statistics of crime. For further details, see Beattie, Crime and the Courts, p.200.

of alleged criminals. Certainly, for this study, it is a qualitative analysis which will provide some insights into both methods of appropriation and the fine dividing line which differentiated perquisites from pilfering in the minds of workers and employers on the eighteenth-century London waterfront.

Given these complexities, it is not surprising that problems remained intractable at the end of the century, as at the start. Despite the constabulary presence on London's wharves, Patrick Colquhoun, the reforming Magistrate, was able to paint only a depressing picture of the extent of depredations suffered by dockside traders. In his Treatise on the Commerce and Police of the River Thames (1800), Colquhoun carefully explained how campaigns and legislation designed to eradicate pilfering and perquisites had failed. A series of Advertisements and Resolutions issued since 1765 by the West India merchants had been no more than dead letters. Combative statutes, such as the Bumboat Act of 1763, had been ineffectual because culprits raised a general fund to pay one another's fines. And, importantly, the increase in commerce had given an 'extensive range to Delinquency', with some offenders such as 'river pirates' and 'light-horsemen' developing a high degree of specialisation, sophistication and efficiency in effecting the appropriation of goods.¹

¹Colquhoun, River Police, pp.41, 100-12. For legislation, see ibid., pp.42-8, and 2 Geo. III, cap.28 (1763), An Act to prevent to committing of Thefts and Frauds by persons navigating Bumboats and other Boats upon the River Thames.

Colquhoun, therefore, felt that improvements to the dockside constabulary were necessary. With the support of the West India merchants and a local magistrate, John Harriott, he set up a Marine Police office at Wapping in July 1798. In a Judicial Department, seven 'petty constables' worked under the auspices of a 'superintending resident magistrate'. However, the emphasis was placed on 'prevention rather than severity'. In a Preventive Department consisting of sixty-two men, fully sixty-four boat surveyors, five perambulatory surveyors, eighteen watermen, three other surveyors, and thirty 'quay guards' - were appointed to act in a constabulary and detective role. In addition, up to 220 'ships' constables' were available to ship owners to replace inefficient watchmen. There were to be two boats patrolling the river at all times and, by a series of regulations, officers were left with few doubts about their duties and powers on the quays and ships.¹ This privately-financed force also comprised a department for organising the employment of 900 lumpers (or ships' loaders).

Such an intensive scheme proved very popular with the merchants because it helped to cut down on the theft

¹Colquhoun, River Police, 199-203; and for instructions to Marine Police personnel, ibid., pp.630-69. On the immediate impact of the River Police, see ibid., pp. 209-35, and assessment in Radzinowicz, op.cit., II, 375-8.

of goods in transit. However, (as the next chapter indicates), the dockside labour force believed that some appropriations, held by employers to be criminal, were either justifiable payments in return for the performance of a specific task, or a legitimate perquisite of their work.

CHAPTER 5

PERQUISITES AND CASUAL LABOUR

Legal disputes often turned upon interpretation of custom, practice, and the bounds of acceptable behaviour. Unlike many of the other criminal records for London, the Old Bailey Sessions Papers provide more than just the barest details of offender, offence and verdict. For large portions of the eighteenth century, even in the less sensational cases, the testimony of prosecutors, defendants, and independent experts was transcribed in quasi-verbatim format.¹

Again, there are an endless number of pitfalls in this evidence. With the knowledge that a fine point of fact might determine the outcome of a case, both prosecution and defence would have chosen their words or stories carefully, perhaps choosing to say what they believed

¹Langbein, 'The Criminal Trial', *op.cit.*, pp.263-316, remains the most useful introduction to understanding how cases were presented in the O.B.S.P. See also, M. Harris, 'Trials and Criminal Biographies: A Case Study in Distribution', in R. Myers and M. Harris (eds.), Sale and Distribution of Books from 1700 (1982), pp. 1-15. Before the 1730s, all but the most sensational trials were summarised briefly. From the 1740s onwards, trials were generally reported more fully with testimony sometimes presented verbatim. The short-hand techniques employed by the reporter, Joseph Gurney assisted this development: see J.H. Langbein, 'Shaping the Eighteenth-Century Trial: A View from the Ryder Sources', University of Chicago Law Review, L (1983), p.12.

the jury would prefer to hear. To what extent their evidence contained fabrications, omissions, major or minor alterations, malicious prosecutions, or downright lies is impossible to know, as is their relation to the verdict. The key, however, for this study is that the courtroom evidence is accepted not uncritically, but as the testimony that was given at the time - as information intended to sound credible, at least credible enough either to discredit or clear the name of an individual on trial. In other words, it may be taken to bear some relation to established practices, even if its absolute validity can never be known.

It is very striking from the legal records that it was overwhelmingly the casual and seasonal labourers on the docks, who were likely to find themselves being prosecuted at the Old Bailey for the misappropriation of goods, rather than the regular gangsmen. In the context of the wharfside labour force, that was hardly surprising, for a number of reasons. 'Contracts' for work were often spontaneous, informal, and short-lived, but they followed a common pattern, when it came to the method of payment. Actual money paid was either small or non-existent, so that the real wage consisted partly or fully of a payment 'in kind'. That is to say, material goods were either donated by the employer directly or gleaned by the employee as part of, during, or after the work process. Viewed out of this context this type of appropriation could readily have been interpreted as theft. Hence,

one constable familiar with dockside practices, described Lewis Goldsbury, a porter on the keys, as a man who 'works sometimes for two or three pence, if he can get sixpence another way';¹ a suggestion that he was prepared to accept low wages in order to exploit the opportunities afforded by dockside labour to appropriate goods in transit. On this occasion, Goldsbury was acquitted.

Other cases were more specific about the structure of employment among those working the docks. The regular gangsmen and coopers often themselves subcontracted work out to casual labour, with a complex miscellany of mixed-wage payments. Indeed, claims were made often enough, that coopers had proffered only tobacco or sugar in exchange for a small errand or task, to suggest that this was a well-established working practice.² In Court, however, that was something that warehouse management preferred not to support, which illustrates the points

¹O.B.S.P., 5-8, 10 Dec. 1744.

²For examples of coopers and subcontracting, see below, p.173. An Act of 1699 (10 and 11 Will. III, cap.21, An Act for laying further Duties upon Sweets and for lessening the Duties as well upon Vinegar, as upon certain Low Wines and Whale Fins, and the Duties upon Brandy imported, and for the more easy raising the Duties upon Leather and for charging Cynders, and for permitting the Importation of Pearl Ashes, and for preventing Abuses in the brewing of Beer and Ale, and Frauds in Importation of Tobacco) made coopers an important part of the dockside labour force. Clause 29 stipulated that, from 29 September 1700, tobacco should be imported not loose but in a 'cask, chest or case'. In addition it defined a 'hundred' weight as 112 lbs.

where the mutuality between regular and casual employees was fragile. In response to a question posed in a case of December 1755, concerning the theft of 25 lb. of sugar: 'Is it usual for coopers to give away sugar in the warehouses?', one Paterson, a warehouseworker, replied briskly: 'No, it is not'.¹ Probably, however, other evidence suggests that a more truthful answer would have been 'Not in such large amounts.' In another case in 1794, Thomas Day claimed that, with little to do on the wharf, his master suggested that he helped a cooper and 'very likely he will give you a bit of sugar, when you are done.'²

Casual perquisites were viewed less kindly by the sometimes-rigid constabulary view. That was expressed concisely in September 1745 by William Clack. He asserted bluntly that gangsmen employed men to 'sweep for the foot; that is, to work for what they can thief or steal.'³ It seems appropriate, however, to balance that type of testimony with an analysis of the recurring defences that were put forward by the men on trial. Repeatedly, they asserted that the goods taken were either damaged, dirty, taken for their 'own use' and not for resale,⁴

¹O.B.S.P., 4-6, 8-9 Dec. 1755: the case of John Clayton.

²Ibid., 19 Feb. 1794.

³Ibid., 11-14 Sept. 1745.

⁴See, for example, the case of Edward Clod (3 lb. of tobacco), who in his defence said: 'I only took it for my own use'. He was acquitted. Ibid., 7-10, 12 Dec. 1763.

or given as part or full payment. In other words, they claimed not pilferage but a legitimate perquisite.

Of the diverse nuances and notions, that help to explain what constituted and justified the legitimately-appropriated perquisites of labourers on the eighteenth-century London docks, two ideas in particular recurred with unerring frequency. The first was that the financial value and utility of a perquisite - most commonly derived from actual materials handled during the labour process - was small. The second was the sense that a perquisite was a benefit, reward, or non-monetary payment, given or condoned by employers, that by its nature was specifically related and deserved because of the performance of some task.

In terms of valuations, testimony rarely pointed to financial absolutes. Generally, the argument turned on how the established or negotiated parameters of 'reasonableness' on the part of the workers matched those accepted by the employers. Hence, in a courtroom situation where a defendant was placed in the position of having to prove the reasonableness of his appropriation (while his opponent endeavoured to show the reverse), the prisoner's best claim was often that he had taken goods that were dirty or damaged in some way. That rendered them of little value as a marketable commodity, and therefore in the defence submission proved that this

practice was condoned or accepted by custom, or negotiated or otherwise agreed upon with the employer.

There were many ways in which goods could become dirty or damaged, while being loaded, unloaded, or in transit. That could occur either accidentally, or, on occasion, on purpose. Knives and tools could be used to open or damage goods, while, in a case in July 1764, the prosecutor produced a large gimlet and small tap and faucet to demonstrate that James Doler had 'bored a hole in a puncheon, and drew off some rum in a bladder.'¹ In October 1761, one defendant explained simply that so much sugar fell out of casks as they were rolled along, that he was 'sometimes up to the ankles in molasses'.² And in a trial of April 1757, a worker in a sugar warehouse made the situation clear. When asked the key question: 'What is that you call perquisites?', he responded: 'It is the sugar that runs in the buildings'. In this case,

¹Ibid., 25-28 July 1764: Doler was found guilty, and sentenced to be whipped. In the nineteenth century the dockers' practice of purposely breaking open cargo was known as 'Broaching'. For details, see J.S. Davis, 'The Thief Non-Professional': Workplace Appropriation in Nineteenth Century London' (unpublished paper presented at conference on 'Crime, Perquisites and the Customary Economy in England, 1650-1850', University of Birmingham, 1986), p.12.

²O.B.S.P., 21-4, 26 Oct. 1761: testimony of Thomas Green. According to R. Campbell, The London Tradesmen: Being a Compendious View of all the Trades... now Practised in the Cities of London and Westminster (1747; reprint Whitstable (Kent), 1969), p.272, there was a hole made in casks to allow the molasses (syrup) to drain away from the sugar. Sometimes sticky molasses were scraped from floors and ceilings: see below, p. 152.

after collecting it for two to three months, it amounted to 952 lb. in weight.¹

Even then damaged or dirty sugar was discernible to the trained eye. A man, who claimed in January 1784 to have been given permission to take some damaged sugar from the bottom of a lighter, was acquitted because the sugar was 'very brown'.² Conversely, in September 1761 John Jebb, a constable, successfully argued that one Patrick Quin had not taken 5 lb. of sugar from off the key but more likely from a hogshead, as it was not mixed 'sweepings' but all one type of sugar.³ Again in September 1766 a constable, who examined 9 lb. of sugar, said: 'I looked into the handkerchief and found it all to be very good Barbados sugar'. And there were many similar cases,

¹O.B.S.P., 20-3, 25 April 1757: testimony of James Dougen.

²Ibid., 14 Jan. 1784.

³Ibid., 16-19, 21 Sept. 1761. A number of cases give an insight into constabulary methods of detection, apprehension, and follow-up techniques to corroborate the case for the prosecution. On many occasions, prisoners were taken immediately to a public house and a constable sent for. The accused could then be searched indoors in the presence of witnesses. Alibis would be checked soon afterwards, and goods with distinguishing marks were traced back to their owners. Prosecutors following these good practices were more likely to succeed in securing a conviction. See, for example, ibid., 9-12, 14 Dec. 1767: the case of Thomas Newman and Susanna Sketton.

when evidence turned on the quality and origins of the sugar.¹ Consequently, not all sugar that found its way onto the floor was 'sweepings' and not all goods claimed as such had ever been on the floor. Sugar 'sweepings' were more closely defined in a case in January 1759 as: 'that which is trod underfoot and not fit to be put back into the cask again, for fear it would spoil the rest'. And Robert Smith, the master of the ship the Earl of Loudon, concurred. Normally, the waste sugar would find its way to the ground tier of the boat and 'after the cargoe is delivered, that which is left, trod underfoot, we call "sweepings".'²

Another variety of sugar sweepings (though often indistinguishable, as they were lumped together) were 'scrapings'. Workers sometimes scraped casks, or the walls and ceilings of vessels, and placed the 'scrapings' in specially-designated barrels. One man, describing such a barrel of scrapings in September 1766, said: 'There were chips and gravels amongst it, and [it] was no good sugar at all'. Later in the trial, the man who

¹Ibid., 3-6, 8 Sept. 1766. In a parallel case in December 1782, a witness countered the prisoner's claim to have taken sugar from the ground, by explaining that not only was it clean, but it also corresponded with that in the nearby hogshead: see ibid., 4 Dec. 1782.

²Ibid., 17-19 Jan. 1759.

had purchased it from the accused, agreed that 'it was only fit for molasses'.¹

Sweepings and scrapings were clearly less valuable than the sugar from which it came.² But many cases point to ambiguities in the definition of these perquisites. A worker's definition of dirty sugar might be broader than that of his employer, and often encompassed the view that any goods on the floor were liable to become dirty and therefore perquisites. John Wallin, in defending the appropriation of a mere 5 lb. of sugar in December 1763, said that because he saw it 'on the ground; I thought I might as well take it, as let people walk over it'. Wallin's defence was, however, not accepted. He was found guilty - and transported.³

¹Ibid., 17-20, 23 Dec. 1766.

²Valuations of sugar and molasses in these sources were apparently not always consistent. The reasons for this were probably that sugar and its derivatives were of different types, origin, and condition. In the 1757 case already cited (see fn.1, p.151), involving 952 lb. of molasses, the indictment put its value at £20, but in evidence James Dougen (calling it 'sweepings') suggested that it would sell for 12 or 13 shillings 'per hundred' (cwt.), making its value in the sweepings market more like £6. A not dissimilar valuation was suggested by a case of 1766 (ibid., 17-20 Dec. 1766), where 200 lb. of sugar 'sweepings' were valued at 20 shillings (i.e. about 10/- per cwt.). Other indictments from this period, involving the appropriation of sugar itself rather than sweepings, give more consistent values, working out at about 30 shillings per cwt. See ibid., 7-9 Dec. 1757 (trial of William Doley); Feb. 1758 (William Foron); and 5-7 April 1758 (William Chamberlayne). Unfortunately, these cases give no clues as to what percentage of the given value would be realised if sold on the black market rather than through official channels.

³Ibid., 7-10, 12 Dec. 1763. Coldham, op.cit., II, 155, shows that Wallin was transported in March 1764, aboard the ship Tryal.

Therefore, a claim that goods were rescued rather than salvaged from the floor was not a defence complete in itself. Goods, which fell on the floor and remained intact, were generally required to be returned to the cask or bag or to another cask for loose sugar. Employees knew this and could claim they had no wish to mix bad sugar with good. The arguments that sugar was 'as black as it could be;... off the ground' (July 1771);¹ or that 'the man would not let me chuck that sugar into the rest because it was wet, he would not have all the sugar spoiled by such stuff as that' (October 1796)² were appeals to the acceptable. However, as happened in both those cases, the examination of the sugar itself could prove these claims to be less than truthful and therefore unreasonable in the eyes of the law.

The definition of what constituted waste became particularly contentious with two commodities - tobacco³ and coffee. Tobacco 'sockings' and waste tobacco were problematic both because of their physical characteristics and their value as a ready means of exchange. Like any

¹See O.B.S.P., 3-6, 8-11 July 1771: the sugar was produced in court, however, and a gangster testified that it had been taken out of a hogshead, not off the ground.

²Ibid., 26 Oct. 1796: James Mann, a Customs House Officer 'examined the bag and found it neat sugar, except about half a pound of scrapings mixed with it'.

³The perquisites of tobacco, or 'sockings' as they were known, are discussed at length in Linebaugh, thesis, pp.409-50.

other commodity, tobacco could become damaged or dirty, although whether this would have automatically resulted in a dramatic reduction in value is less clear than with goods such as perishable foodstuffs. It seems that much dirty or damaged tobacco was not considered by employers as waste, which left labourers, used to supplementing or making their wage from perquisites, more open to accusations of theft. That would certainly account for the large number of disputed 'tobacco' cases when it was more likely to be the 'reasonable' quantity of the perquisite rather than its physical condition that was at stake.

Therefore, as tobacco waste defied a close definition, it was more difficult to arrive at a rationalised and general system of entitlement. Tobacco perquisites could be controlled in a closed environment - for instance, on board ship or in a warehouse, where body searches could be carried out as personnel left work. One employer, Thomas Pendall, indicated his method of addressing the problem. He told the Court in June 1736: 'I had stow'd about 70 or 80 hogsheads aboard, and my men had leave to smoke and chew what they pleas'd, but I bid them pocket none.'¹ However, this view took no account of the labourers' needs for an exchangeable rather

¹O.B.S.P., 10-12 June 1736.

than a simple consumable perquisite. Furthermore, the role of tobacco as an unofficial and informal 'currency' among the populace made it especially attractive as a portable item of pay.

In the open environment of the quayside tobacco perquisites were yet more open to variable definition. The inadequacies of control from the employers' point of view led them to a more easily-comprehensible solution, abolition. Edward Daintree, a constable, described how that was put into effect, when giving evidence in a trial of June 1785. 'Damaged tobacco', he said, 'is put into tar and water and soaked and carried to be burnt; that is the practice of it. It should be so, that is our instructions.'¹ This custom was adopted increasingly in the later decades of the century, albeit without resolving all disputes.

Waste tobacco was then, by definition, so damaged that it was of no use to either employer or employee. It suggests an area where a previously-legitimate perquisite was rejected by the employers and hence redefined as criminal activity (with any appropriation construed as theft). The judge himself in the same case of 1785 warned the prisoner at the end of the trial that: 'it was a very bad practice to take this damaged [emphasis added]

¹ Ibid ., 29 June 1785.

tobacco in this manner'. Yet the jury, perhaps appreciating that they were dealing with a grey area, found the man not guilty. Indeed, later in the same sessions, one William Sparks was also found not guilty of stealing 12 lb. of tobacco. In that case, the evidence showed that 'the tobacco was wet' and 'it appeared to have been taken out of the tar' (although its value then as a perquisite seems less apparent).¹ Undamaged, quantifiable perquisites of tobacco - sometimes a prize, measure, or a sample from a hogshead - were sometimes still allowed even at the end of the eighteenth century, but these goods were more likely to find their way into the hands of the casual labour force via the working elite, the gangsmen who were issued with passes to certify the legitimacy of their possession.²

Coffee posed a problem for similar reasons, as the definition of what constituted waste was also very unclear. A dozen cases between 1795 and 1799 indicated that there were ample grounds for misunderstanding. John Scott, a cooper at one warehouse who was discovered

¹Ibid., 29 June 1785.

²See, for example, the case of William Moncrief: ibid., 15 Jan. 1800, when John Mills, the gate keeper of the King's tobacco warehouses, assured the court that 'no samples are offered to be taken out without a pass and he had none.' See also James Wilson's testimony to the same effect at the trial of Edward Rutledge, ibid., 22 June 1796.

with 2 lb. of coffee hidden in his waistcoat, claimed in September 1795: 'It is a little raw, dirty coffee; we cannot help spilling the coffee in coopering the casks; and if I had put it into the casks I might have spoiled the sale of it; I thought I might make free to take it to my family to clean.'¹ But at William Sard's trial at the next sessions (October 1795) a Customs House locker, whose job it was to maintain security, explained that: 'There was a great deal of raw coffee on the floor that the tarers [tallymen] had left, as much as would fill a couple of hogsheads'. And, taking the point further at the end of the same trial, one Knowlys added: 'This coffee is necessarily thrown on the ground to be dried and tared [weighed]'.² Coffee on the floor then, was not necessarily waste but could be there for a reason. That coffee so placed was not a perquisite was echoed

¹ Ibid., 16 Sept. 1795: the defendant was found guilty, and imprisoned for three months in Newgate, with a fine of 1/-.

² Ibid., 28 Oct. 1795. It is possible that warehouse tarers were also involved in cleaning or grading the coffee. According to J. Douglas, Arbor Yemensis fructum Cofé ferens: Or, a Description and History of the Coffee Tree (1727), p.40, although a 'roller' was normally used in the country of origin to separate the husks from the coffee kernel, sometimes the husks remained, lowering the coffee's value. (See J. Douglas, A Supplement to the Description of the Coffee-Tree Lately Published by Dr. Douglas (1727), p.47). The husks, however, were not considered to be waste, indeed some writers in the seventeenth and eighteenth centuries suggested they made a drink more 'cooling and refreshing' than that produced by the 'coffee-berries'. See E. Robinson, The Early English Coffee House, With An Account of the First Use of Coffee (1893, reprint Christchurch, 1972), p.6, citing Sir Hans Sloane, writing in 1694, and B. Moseley, A Treatise Concerning the Properties and Effects of Coffee (5th edn., 1792), p.78.

in a similar trial in April 1799, a view modified by another Custom House locker, who stated in the February Sessions of 1798 that any coffee droppings from the casks 'are swept together and cleaned for the use of the warehouse keeper.'¹ In that case, however, the accused claimed that he had worked there for three years, and believed that floored goods did not belong to anybody. Clearly, there was scope for dispute, and much depended on each warehouse's own custom and accepted practices.

Sometimes other allowances were offered as an alternative. Two cases of October 1795 suggested that workers were given a beer perquisite in lieu of the right to appropriate materials. In the second case, the cross-examination of Christopher Wilbore, a Custom House locker, went as follows:²

Q. to Wilbore: Perhaps you have never heard of such a thing as perquisites of the little tare that might drop from the casks?

Wilbore: There are no perquisites of coffee; they have beer.

Q: Did you never know persons that had coffee and considered it as perquisites; have you never heard that before?

Wilbore: I don't know that I have. I cannot recollect it.

¹O.BSP., 3 April 1799; and 14 Feb. 1798 (case of Philip Bramley).

²Ibid., 28 Oct. 1795.

And yet, in other cases, Customs House lockers acknowledged the existence and legitimacy of samples. In January 1796, it was accepted that, although coffee on the floor was required to be returned to the cask, 2 lb. was allowed on each hogshead as waste; and, rather like tobacco, samples could pass out of the warehouse as one locker, James Wilson, said in June 1796, if 'regularly cleared'.¹

Many other items conformed more closely to the practices allowed in the case of sugar. Coal that was wet and muddy because it had been mudlarked - salvaged from the river bed at low tide - was a legitimate perquisite.² Deliberately throwing coal overboard for later retrieval or, as William White found to his cost in April 1766, trying to pass dry, clean coal off as mudlarked were clearly a breach of what would reasonably be accepted by employers. Like sugar, coal 'sweepings', that is, the coal crushed at the bottom of the lighter, formed a legitimate perquisite based on waste. When labourers were found guilty, despite claiming a legitimate perquisite, one reason might be that the owner could prove some transgression of acceptability. For instance,

¹Ibid., 13 Jan. 1796; see also the case of Edward Rutledge, 22 June 1796.

²Ibid., 9-12 April 1766. It is worth noting that Colquhoun, Police, pp. 230-1, believed that mudlarking could be used as a pretext for more nefarious activities. Apart from sweepings and mudlarked coal, an early case showed that some lightermens' servants claimed the right to buy coals cheaply (O.B.S.P., 7 Dec. 1726).

in April 1777, a Mr. Hurford, the owner of a coal vessel, successfully argued that it would have been impossible for Henry Wilkins to have taken sweepings as there was still 'a chaldron or chaldron and a half remaining' in the boat, which was too much to gain access to 'sweepings'.¹ In another case of September 1792, 'round coals' were found to be taken instead of fragments.² Similarly, with malt: 'good malt' was not allowable as sweepings. One expert witness made the difference clear in his testimony, in a case of September 1794: good malt 'that was stoned ... appeared brisk; and, if it had been sweepings, it would have been slack and damp.'³

Other cases recorded at the Old Bailey, specifically mentioning dockyard perquisites as opposed to peculations, recurred too infrequently for it to become clear whether the uniqueness of the circumstances in each case or the nature of the commodity was the main determinant for evaluating the validity of claiming waste goods as perquisites. For instance, on the only recorded occasion when saltpetre was claimed as a perquisite, many questions were left begging. In October 1784, James Lee, a ships'

¹Ibid., 9 April 1777. For the definition of a chaldron, see Smith, op.cit., p.363.

²O.B.S.P., 15 Dec. 1792.

³Ibid., 17 Sept. 1794.

lumper (loader), stood accused of stealing 12 lb. of saltpetre, while at work on a vessel. His testimony made a conventional appeal to the idea of waste as a perquisite, indicating its position in the ship's hull. As Lee explained: 'I thought a day's work was better than walking the streets; they were raking out the ground cellars, I thought it no harm to take a little of the waste goods'.¹ Unfortunately there is no record of what a legitimate saltpetre perquisite would have been (if indeed one existed) or what constituted saltpetre waste. Clearly, the consent of both immediate and ultimate employers was missing on this occasion. Lawrence Crossley, the third mate of the ship, implied as much, when he said that Lee 'took the opportunity, while I was called upon deck to breakfast, to fill his stockings with saltpetre'. And Lee's final comment at the end of his trial - 'I was unacquainted with the work' - points at the problems both for the dockside casual labourer - and also for the historian. In practising what he expressed as being reasonable rules of the river, Lee found himself in a situation where the particularities of the notions of waste, the propriety of appropriation, the established customs of the perquisite ownership,² and the rules of

¹Ibid., 20 Oct. 1784.

²The notions of perquisite ownership and accountability for appropriated goods often demonstrated responsibility for security on the quayside. In the later decades of the century, multiple indictments for a single theft often named gangsmen or watchmen, as being the owners of stolen goods. Where ownership was unclear, goods were often laid in the name of 'persons unknown', so that a technicality contesting the precise ownership of goods in transit would not prejudice a successful prosecution.

the employers - in this case the 'United Company of Merchants trading to East Indies' - were unfamiliar to him. Ultimately, Lee was found guilty and sentenced to be whipped.

How then were perquisites deserved or earned? Allowing the appropriation of perquisites had benefits for the employer as for the employee. That suggests a number of dichotomies. The disposal of waste materials clearly benefitted employers in two practical ways. Firstly, it maintained the purity of the commodity, and secondly, the cleanliness of vessels and premises. For instance, James Dougen had noted in April 1757 of the sugar sweepings: 'the sugar that runs in the buildings..., our master gives us that for keeping the warehouse clean'; and in January 1759, it was also agreed that sweepings 'not fit to be put back into the cask again, for fear it should spoil the rest' remained separated. One is left feeling that had tobacco 'sockings' been more like 'sweepings' their appropriation would have been less problematic. As it was, the gathering of sugar sweepings could be awkward and messy. One Customs Officer, who described its removal from on board ship in a case of September 1766, said: 'it was dirty stuff that was scraped from the ceilings'.¹ In this sense then, the assiduous

¹See three cases in *ibid.*, 20-3, 25 April 1757; 17-19 Jan. 1759; and 3-6, 8 Sept. 1766.

labourer's incentive or reward could be directly related to his efforts, with the well-earned perquisite placed at his disposal.

The concept of the perquisite, as a just reward for awkward or extra work, emerged on several occasions. Sometimes, it was the reward for the extra work of keeping a ship or warehouse clean, which amounted to little on a day-to-day basis, but as in the example of scrapings could fill a barrel over a longer period. Or it might bear relation to an extra task, performed not necessarily by strict contract. In 1766 one defendant, who had gone to the trouble of fishing out a hundredweight of wood that had fallen into the Thames, felt aggrieved that his efforts had not been rewarded by a pint of beer. He got a brush, cleaned the pieces and stored them under his bed: 'having found no encouragement for picking them up', he felt justified in his actions. The jury agreed, and acquitted him.¹ But, in a later case in May 1797 when the wood was worth £160, a similar defence claiming a just reward did not succeed. One witness for the defence lamented: 'You are allowed a salvage, but when you take it to those water bailiffs, you never get anything for it.'² Taken in context, it would seem that the timber rafter - one

¹Ibid., 2-5 July 1766.

²Ibid., 31 May 1797.

John Mills, who claimed that he lost £1500 - £2000 annually in driftwood - lacked an understanding of the reciprocal benefits that a system of perquisite/rewards could bring. Not so the four men, who expressed this principle clearly in 1783. At their trial, where they stood accused of stealing 900 lb. of raw coffee, they claimed the right to collect sweepings, because: 'We have had a great deal of trouble in working the ship'.¹

Certainly, many defendants expressed the clear view that perquisites were a right, and not merely a favour. Another abundant commodity provided a number of test-cases. The odd ends of old rope or 'junk' as it was called, that was collected together on board ship or at the dockside, were of little value and were therefore held to constitute waste. Their disposal as a perquisite again conferred benefits upon both employers and employees. In a case illustrating that, the captain of a ship described the incentive he presented to casual workers:²

'I had some labourers at work the day before,' he said.

¹Ibid., 29 Oct. 1783.

²Ibid., 13 Sept. 1780. The terminology in some of these cases concerning rope is interesting. In this case John McDaniel the defendant was accused of taking a piece of rope called a 'pudding' to an 'old stuff shop', and indeed it is possible that the phrase 'money for old rope' originates from the perquisite allowed to ship and dockside labourers.

'I told them to be sharp and I would give them some short pieces [of rope] which lay upon the deck'.

However, in other cases, the workers employed on a more regular basis tended to transmute the idea of deservedness into a right. One Bucannan, a ship's mate, accused in May 1764 of stealing old rope, pointed out the value of junk to the jury, when he said 'If I had a mind to have been a thief I could have taken something worth my while.'¹ Yet according to other testimony (admittedly from the man deemed to be the real culprit in this case) that did not prevent Bucannan from boasting that he was 'at liberty to sell junk and such like', despite its low value. Indeed, because a perquisite implied some recognition of a person's relative standing in the shipboard hierarchy it had a value aside from the more obvious material benefits. In this case, Bucannan had given orders to the boatswain and second mate 'to sweep all the odd ends of rope together and go on shore and exchange them for brooms and greens.' The court accepted his proper ownership of this right and he was acquitted.

Less successful was the defendant at a trial in January 1760. In answering the charges brought against him,

¹Ibid., 18-21 May 1764.

Alexander Gater made an unequivocal claim:¹

It is my right and property, as is all such stuff in ship yards; nothing but old rubbish together and there was nothing among the rope but what was bad rotten stuff.

Gater's testimony was in part supported by the owner of the tackle, who agreed that it was the custom to give the old ropes away if they were asked for. Gater had also enjoyed some longevity of employment and was not a casual worker. Yet, while Bucannan was acquitted, Gater was found guilty. There are a few signs to show what made the difference in these two similar trials. There were differences in the extent of the appropriation, and also the differences between shipboard ranks. Bucannan was described as a ship's mate, but Gater was only a labourer, whose perquisite ownership - at least in the eyes of the employer - was linked more to performance and negotiation than to seniority and right (although Gater tried to convince the Court otherwise).

A number of other cases support the view that it was often the ship's mate, who was granted the right to

¹ Ibid., 16-17 Jan. 1760. Gater stood trial with one John Stoaker, indicted with stealing 1 cwt. of ship's tackle from John and Robert Batson and 100 lbs. of other ship's tackle, along with iron thimbles and hoops from persons unknown. The defendants were caught red-handed at Ann Lee's, a woman known to buy 'old rope and junk of a parcel of thieves'. Lee emphasised the low value of the rope by pointing out that it was 'paper stuff', only good for making paper. Nonetheless, Gater found himself sentenced to seven years transportation. Stoaker, a waterman, claimed he was an innocent, employed only to carry the goods. He was acquitted.

sweepings by the master of a vessel. In January 1759, one Neal (who had an expert knowledge of waterside procedure as a former chairman and coalheaver) was accused of receiving stolen sugar. He defended the legitimacy of his source by saying:¹

It is customary in the River Thames for the mate to have the sweepings of sugar.

Illustrating how a mate could then distribute the perquisite, he added:

This man had money bid for them, I said
I would give him as much as anybody;
accordingly he let me have preference.

The mate's permission was often claimed in defence against charges of pilfering. Such testimony by a shipboard surveyor led to the acquittal of Robert Brewster, who in September 1766 stood accused of stealing 200 lb. of sugar. It further suggests that ownership of the perquisite could be passed down the ranks.² As the surveyor, Prior, said:

Dirty sweepings, we never give ourselves any concern about them... It has always been the custom of the chief mate to dispose of them, if he thinks them worth his acceptance; if not, the boys take them.

Ships' mates, however, were hardly acting for pure benevolence by donating their perquisites to others.

¹Ibid., 17-19 Jan. 1759. The status of these occupations was not, however, very great.

²Ibid., 3-6, 8 Sept. 1766.

It was the mate's duty to get the hold cleared and looking 'ship shape'. And it seems, judging from the albeit scanty references in the Printed Proceedings, that the mate also had the responsibility of hiring and supervising the casual labourers employed in the unloading process.¹ Disposal of perquisites could therefore be useful for mobilising labour. Although still ungathered, it was in the mate's gift and had the potential power to act as a bait for labour or an incentive for efficiency. For the employer, it also held out the prospects of a quick turnaround and gave a means of supplementing money payments by these waste materials.

Indeed, there is much evidence, both direct and circumstantial, that perquisites had a central role in the procurement and remuneration of labour. It seems that the ship's mates were the pivotal figures in the relations between the employers 'above' and the labourers 'below decks'. On the quayside and in warehouses, where this role was carried out by gangsmen and less formally by coopers, this phenomenon is better documented. Perquisites were used by these groups in their role as subcontractors of casual labour, but, because there were no rules about whether goods were to be appropriated by the employee or donated indirectly or directly by

¹See, for example, the trial of Richard Richmond, ibid., 23-26, 28-31 Oct., 1-2 Nov. 1771.

the subcontractor, there were many subsequent disputes. In some cases that came to trial, the reporting is so brief that few details can be gleaned. Yet, a more fully reported case proved informative about gangsmen's techniques of employment and payment. In September 1745, James Leppard, a porter (but not a 'ticket porter' and therefore more prone to casual employment outside the gang structure), stood accused of appropriating $1\frac{1}{2}$ lb. of tobacco from a hogshead.¹ Despite three character references delivered by gangsmen, Leppard had been caught in the act by a constable and was therefore found guilty. The constables clearly believed the methods of remuneration for subcontracted labour to be at fault. As constable Ebenezer Hartley explained to the Recorder:

My Lord, it is no wonder that these gangsmen (hired by merchants to put goods in warehouses and lock them up) speak for these persons to encourage thieving - for they put them upon it.

William Clack, another constable, was more explicit: 'He [Leppard] is one employed by these gangsmen to do what they call 'sweep for the foot'; that is, to work for what they can thieve or steal.

Many of the tersely-recorded pilferage cases at the Old Bailey therefore proved to be more complex than they

¹Ibid., 11-14 Sept. 1745. And for details of the organisation and prerogatives of Ticket Porters, see Stern, op.cit., pp.47-81.

seemed at first sight. It seems that in some cases for the casual dockside labour force perquisites did not form an additional benefit to a wage, but could constitute the payment itself.¹ The Old Bailey records refer to all sorts of rates of pay for work contracted on the London waterside, but seldom give details of the duration of the task, its manageability, or the perquisite promised or expected. Consequently, it is very difficult to establish regular rates of pay or make comparisons between different cases. It cannot be assumed, for instance, that 6d. paid for each cask delivered out of a ship's hold to the wharfside, when divided between the labourers (January 1758), would have proved more profitable than 2/- a day plus tobacco perquisites (March 1755) or 1/- plus coal sweepings (December 1792).² Neither did valuations of appropriated goods necessarily bear a great resemblance to what the labourer would be able to receive for them from a dealer.³ Hence again, it cannot be assumed

¹There were no suggestions that for those prosecuted this casual work was an adjunct or supplement to other regular waged labour, although there are occasional references to seasonal workers and soldiers in employment on the quays.

²Compare three cases in O.B.S.P., 13-14, 16-17 Jan. 1758; 26-28 Feb., 1, 3-4 March 1755; and 15 Dec. 1792. See also E.J. Hobsbawm, Labouring Men: Studies in the History of Labour (1964), p.348.

³Two instances from the first half of the century indicate that some dealers were prepared to pay about 80% of the market value, as stated on the indictment for appropriated goods. In 1722, the publican of the Bell and Coopers Arms was prepared to pay 7/- a pound for tea valued at £50 per cwt. (O.B.S.P., 7-12 Sept. 1722). In 1738-9,

... continued ...

that all of those convicted of theft were really thieves.

A recurrent defence, and therefore one that was expected to be plausible, was the claim by defendants that they were given goods or permission to take goods by the coopers, who crated and barrelled goods. Reasons given for these payments vary from the running of errands to the performance of tasks integral to the work process. It was uncertain in most cases whether these payments were taken from the coopers' own allowances or (within limits) from the hogsheads, to conform to the bounds of natural and/or acceptable waste and loss (what is known in the twentieth century as 'working the load').¹

³(continued from previous page) David Adamson was prepared to pay '5s.6d. and ... 3d. for a full pot of beer' for 13 lb. of tobacco valued at 7/- . In evidence, two other factors for determining a dealer's valuation emerged - the condition of the goods and the amount of duty payable. As Joseph Crosier, the constable, said in his testimony: 'Some tobacco is better than others; but I think none can be bought for the price he gave for this. I take it the duty is five pence farthing, or five pence half-penny per lb.' (See *ibid.*, 17-20 Jan. 1739: the case of William Rogers; and *ibid.* 21-24 Feb. 1739: the case of David Adamson).

¹There were ample reasons for deficiencies in the loads newly arrived in London. Chests, crammed into ships' holds, may have been broken during the course of the journey (*ibid.*, 24-27 Feb. 1748), there may have been 'washing' of the goods - erosion of a poorly stored load through bad weather (*ibid.*, 18 April 1798) or by the longweighting of hogsheads, plundered as the ship sailed from the port of departure or during the voyage itself (see for example *ibid.*, 9 Dec. 1778 and 13-14, 16-17 Jan. 1764, for cases respectively concerning stolen silk and 20 lbs. of tobacco). For an explanation of longweighting or exaggerating the size of

... continued ...

Certainly this type of subcontracted labour was of a less formal nature than that engaged by ships' mates and gangsmen. It was particular to the coopers' needs - for example, the fetching of hoops, and rolling of barrels - and therefore peripheral rather than central to the work process. In consequence, this type of subcontracted labour held less formal sanction from merchants and normally meant that payment was more likely to be completely in kind. In none of the 'cooper cases' were money payments mentioned, the perquisite (or more aptly perquisite/payment) forming the entire wage.¹ Mutuality was uneven, however, where the pattern of employment and remuneration was informal. The casual labourer needed the support and testimony of the cooper in court. Coopers, however - with one foot inside the formal structure - were prone to abandon their employees, at least as far as these cases were concerned. The position therefore of casual workers was highly precarious; they were given the donkey work, with the perquisite/payment the incentive, but could easily find themselves isolated

¹(continued from previous page) a consignment see Linebaugh, thesis, pp.413-4. For the twentieth-century concept of 'working the load', see Mars, *op.cit.*, pp.106-107. Hobsbawm, *op.cit.*, p.345, writing of the nineteenth-century described it as 'What the traffic would bear'.

¹For cases involving coopers, see ORSP., 11-14 Sept. 1745; 17-18, 20 Jan. 1746; 4-6, 8-9 Dec. 1755; 2-5 July 1766; 21-23 Oct. 1767; 16-19, 21-23, 26 Feb. 1774; 20 Oct. 1779; 13 Jan. 1790; 19 Feb. 1794; and 4 Dec. 1799.

and outside the bounds of what were held to be legitimate appropriations.¹

Perquisites were taken most legitimately, as already noted, when clearly part of the clearing-up process. Careful storage of 'sweepings' was accepted. However, tools used to gather scrapings or sweepings could also be used to damage or open chests, casks, or packages deliberately - whether to create additional waste or to provide an opportunity for direct appropriation. If the prosecution could prove (to use another twentieth-century phrase) that a prisoner had been 'tooled up', this could be used to add to the seriousness of the offence. In one trial, a tool commonly used by scrapers was produced in court and, although described as something 'they have to scrape their casks', was also specified as 'not allowed'.² This apparently Janus-faced attitude may have referred to potential uses to which the tool could be put. In the case of John Small (October 1792), who was stopped in possession of 16 lb. of sugar,

¹In that they share some of the vulnerabilities of those modern workers described as having 'donkey jobs': Mars, *op.cit.*, pp.66-88. Paucity of empirical evidence means that the imposition of Mars' twentieth-century categorisations (e.g., 'donkey jobs', 'wolfpack jobs') would be anachronistic, if applied too literally to eighteenth century employments. This anthropological approach, however, provides an interesting insight into how successful 'cheats', though physically separated, 'fiddle' in alignment: *ibid.*, pp.89-107, 115.

²O.B.S.P., 25 Oct. 1786.

the constable found a 'cane scoop', 'not a thing commonly used on board a ship.'¹ However, it was more often in cases of larger appropriations that unusual equipment was used. In October 1747, a case was brought by the East India Company, prosecuting a man who bored holes in tea chests, in order to nip in the bud 'a practice done of late' by organised groups of men.² For the casual labourer, it seems that the real skill of appropriation lay more in stealth than ingenuity. Even in the darkness of a ship's hold where visibility (according to one lumper in 1778)³ could be down to between three and five yards, it was still possible to hear chests being damaged or opened. Conversely, on the quaysides with their hustle and bustle and apparently free access - so that people could feign employment or stroll around for hours - appropriations and pretended accidental breakages were less noticeable if made to look naturally part of the scene.⁴

Ingenuity manifested itself particularly in the art of concealment. An analysis of the testimony of constables,

¹Ibid., 31 Oct. 1792.

²Ibid., 14-16 Oct. 1747.

³Ibid., 9 Dec. 1778.

⁴For people feigning employment to gain access to goods, see, for example, ibid., 17-18, 20 Jan. 1746: the case of James Soloban; and 13-14, 16-17 Jan. 1764: the case of Patrick Brewer. Previous work experience in the environs often gave men the knowledge and confidence to appropriate goods in this way.

watchmen, and others employed to maintain security suggests that large quantities of commodities (large both in weight and volume) could be hidden successfully in a labourer's work-clothes. Men appear to have believed they could successfully conceal between 10-20 lb. of sugar or tobacco, and sometimes more, in this way. Goods, could be stuffed into loose-fitting waistcoats or baggy trousers; sticky sugar or coffee could be pressed into the top of a hat; tobacco placed in specially-designed pockets and belts in breeches or in overcoats and aprons of the kind commonly worn by dockside workers and coopers. (See Illustration 4).¹ At some East India Company and other warehouses a visual inspection was not enough; workers were 'rubbed down' and their hats removed or tilted to allow goods to trickle out. On many ships, it was the custom for lumpers to be searched as they went ashore. Successful appropriators had to somehow circumvent these security measures, and though, by definition, the legal evidence refers to those who

¹The Old Bailey records have proved to be an extremely fertile source for showing how clothing was used to conceal appropriated goods. Examples included a stocking hidden inside breeches (4-6 Dec. 1745); a belt around the waist (7-9 Dec. 1757); 'cheque' aprons sewn into a coat (21-24, 26 Oct. 1761); and a 'Jemmy' or under-dress (see Colquhoun, River Police, p.62). Illustration 4, 'The Cooper' is by Thomas Rowlandson. See T. Rowlandson, Rowlandson's Characteristic Sketches of the Lower Orders... a Companion to the New Picture of London (1820). For more details of clothing worn by dockside labourers, see W.H. Pyne, The Costumes of Great Britain: Designed, Engraved and Written by W.H. Pyne (1808).



COOPER.

ILLUSTRATION 4. Rowlandson's 'Cooper' from Characteristic Sketches of the Lower Orders... a Companion to the New Picture of London (1820).

displayed more bad luck or incompetence than ingenuity, it can be surmised that the successful appropriators of goods used similar methods. Probably successful concealment can be calculated on a primitive volume to weight ratio. Unfortunately, this did not always tally favourably with the value of the commodity, so that realistically sugar or tobacco with a low value-to-density ratio, were the best items to take in regular small amounts. Charles Jordan presented a case in point, who, being caught with 2 lb. of tobacco, confessed to similar appropriations once or twice a week for upwards of a year.¹ Warehouse labourers on the other hand, often with long term access to goods with a high value-to-density ratio, such as pearl shells, indigo and even tea, might conceal such items within the buildings until they felt confident that they could be quietly removed. Other techniques were also used. Intact goods ranging from small amounts of sugar to 56 lb. iron bars might be hidden under or with a legitimate perquisite, such as sweepings, sawdust, or chips; goods were passed out of windows, placed in handkerchiefs, or taken in the course of feigning a bona fide task.²

¹O.B.S.P., 26-28 Feb, 1, 3-4 Mar. 1755.

²Again, the Old Bailey records have proved invaluable as a source for investigating the diverse methods of appropriation and getaway. For the examples cited, see ibid., 12-14 Oct. 1748 (pearl shells); 5-7 April 1758 (a 56 lb. iron bar); 10 Jan. 1798 (indigo). The indigo case is particularly interesting as it provides a good illustration of both long-term concealment and methods of detection. Acting on information, Daniel Gossett,

Nowhere in the study of wharfside perquisites are the notions of reasonableness and acceptability more blurred than in attempting to understand when an appropriation passed from being legitimate to illegitimate. As already noted, casual labourers, without the benefit of the more carefully defined limits of samples and by the nature of their remuneration, were particularly vulnerable to accusations of transgression. A defendant's claim at his trial in October 1761, that he found sugar on the ground among the 'molasses', was countered by a gangman's testimony that in this case 20 lb. of sugar was too much to be allowed to remain on the floor.¹ However, other cases indicate that it was common for goods to be found lying about. In December 1758, one witness suggested that it was not unusual for 15 lb. of sugar to be left lying about, and elsewhere it becomes clear that commodities transported in flimsier sacks or bags often overspilt.² Since the limits on the appropriation of

²(continued from previous page) the warehouse owner, found 'over the entrance of the door [of the 'privy'] a great many pieces of indigo secreted; it was in a dark place where no light comes; it was concealed upon the loose timbers'. Gossett marked the pieces with a pencil with his name and replaced them, and then patiently waited for the culprit, watching from 'an adjoining privy'. When a man was later apprehended on his way to a brewhouse, he was found to have two pieces of indigo marked with Gossett's name.

¹Ibid., 21-4, 26 Oct. 1761.

²Ibid., 6-8 Dec. 1758.

intact goods were tighter than on those that were damaged, it could be in the labourer's interest surreptitiously to damage spilt goods, so that despite a reduced value it could be more easily definable as a legitimate perquisite. Cases concerning sweepings show that amounts ranging from a few pounds to several hundred pounds in weight could be sanctioned, whereas the appropriation of just one pound of intact goods could be interpreted as theft. The recurrent notion, expressed by employers and employees alike, that perquisites were low in value was more properly explained in terms relative to the intact commodity rather than to any financial absolute.

Testimony also indicated that some employers would allow a certain latitude for the loss of undamaged goods, but would interpret high losses as theft. Cases such as those when, for example, Leonard Phillips, a coal merchant and wharfinger, found thirty-one deal boards missing and 'thought it was too large a quantity to be lost', often led to the adoption of greater security measures.¹ At other times, it was made clear that definable boundaries had been transgressed. The prosecution in a case of December 1741 took great care to illustrate this point by bringing in an expert,

¹Ibid., 14 Sept. 1785

Mr Gambier, to inform the court of the amount allowable as 'dirt and tare' on bags of pepper. It came to light that 12 lb. per hundredweight bag had been removed when in fact Gambier revealed that in a consignment of 5400 bags there should only be 116 bags of 'dust'.¹ In terms of a hundredweight sack this amounted to less than 3 lb.

A case brought ten years earlier in 1731, involving the appropriation of a 17 yard length of calico, was one of many which showed that regular employees could also be brought to book for abusing the perquisite system. Isaac Rowe, the defendant, pleaded:²

that it was a common custom and allow'd to labourers in the warehouse to take now and then a remnant of wrappers as a perquisite.

The prosecution witness for the East India Company, however, pointed out that 3000 yards had been lost to the company. Although he agreed with Rowe, that:

it had been practised, and was allowed to take the quantity of a couple of yards for an apron, or Night-Cap, or so;

[he continued]

but, this Allowance being found to be abus'd, there had been an order made to the contrary by the commissioners of the warehouse; but there never was any Allowance for the taking whole pieces, or such Quantities.

If the intention was to make a scapegoat out of Rowe, it failed - he was acquitted. But certainly the East

¹Ibid., 4-6, 8-9 Dec. 1740: the case of Thomas Ridout.

²Ibid., 13-15 Oct. 1731.

India Company's intention to clamp down on the abuse of perquisites would have made the warehousemen think more carefully about their appropriations. Even a prosecution leading to an acquittal could still have the desired effect for the employer, by influencing employees to adhere more to his levels of acceptability than following what they believed to be reasonable or possible.

The issue of perquisites for casual labourers was highly nebulous. Only in a case of March 1755 was it clearly suggested that casual labourers' behaviour was considered totally unreasonable as well as criminous according to the extent of the appropriation. Samuel Vinton, who had been employed with Benjamin Perry, the prisoner, and others at 2/- a day as a ship's lumper, described the theft of a hundredweight of tobacco. 'We took that all away at several times, from the beginning in the morning, to the time we left work'. He further indicated a degree of organisation, adding: 'after we got it on shore, we sent for a man, one Duffey, to buy it.'¹ Comments such as these and cases attempting to prosecute 'receivers' give a glimpse of the distribution network used by workers to dispose of appropriated goods. Dealers, as already noted, may have gone to a ship to bid for sweepings and were known to have paid in money or beer.

¹Ibid., 26-28 Feb.-1, 3-4 March 1755: the case of Benjamin Perry.

Other cases show that items may have been disposed of at a local alehouse or taken to a well-known receiver. Sometimes unusual appropriations had to be sold to a hitherto unknown specialist. An example was shown by the case of a chemist, who was approached in 1765 with aloes.¹ Labourers, however, faced a smaller risk of prosecution if they had dealt with a well-known or familiar dealer whose business to some extent relied on perquisites to continue profitably.

Hence, commentators like Colquhoun in the 1790s believed that, an imperative element in the elimination of 'depredations' on the London docks was the annihilation of this part of the chain - the receivers, who, he said, generated and encouraged both official perquisites and illicit pilfering. However, receivers were often men

¹Ibid., 27-28 Feb., 1-2 Mar. 1765: Humphrey Jackson, the keeper of a chemist's shop in East Smithfield, saw an advertisement detailing the stolen aloes from a Captain Hall's ship. When approached by three men to buy aloes the next day, Jackson decided to entice the men to return shortly with a larger sample. On their return, the three men were arrested. On the growing use of the printed word to hasten criminal investigations, see J. Styles, *op.cit.*, pp.127-49, esp. pp.127-33. On a number of occasions, a crime was successfully detected because of suspicions aroused when the goods were sold. For examples see: O.B.S.P., 30 June, 1-5 July 1714 (a Wherry); 27-28 Feb. 1718, 12-15, 17-19 Sept. 1750 (both Lignum Vitae) and 3-6, 8 Sept. 1766 (Fox Skins).

of wealth, and were difficult to convict.¹ Consequently, a reduction in appropriations was more effectively carried out by instituting greater controls over the workforces with the creation of the Marine Police and the construction of fortified docks after 1800. With these measures, the employers' disapproval of a mixed wage could actually be enforced, and in the nineteenth-century perquisites, that were no longer condoned,² became much less easy to appropriate.

¹For P. Colquhoun on receivers, see Colquhoun, Police, pp.288-309. In forty-five of the dockside cases between 1700 and 1800, receivers of goods were either defendants or shown to be involved. However on only five occasions were they found guilty. See for examples, O.B.S.P., 19-22, 24 Feb. 1766: the case of Matthew Dun, Frank Egar, John Ash, William Hodson and Godfrey William Smith and ibid., 18 Feb. 1778: case of John Collins and Edward Adamson. For comments on the legal and practical difficulties of prosecuting receivers to conviction, see Fielding, Enquiry, pp.68-75 and Radzinowicz, II, 21-22, 321-22.

²On the failure of the Sugar Coopers to defend their customary payments in 1821, see G. Pattison, 'The Coopers' Strike at the West India Docks, 1821', The Mariner's Mirror, XLV (1969), 163-84. For the building of the nineteenth-century docks, see inter alia W.M. Stern, 'The First London Dock Boom and the Growth of the West India Docks', Economica, n.s. XIX (1952), 59-77, and G.S. Jones, Outcast London: A Study in the Relationship between Classes in Victorian Society (1984), pp.111-22.

CHAPTER 6

CONCLUSION

Crime itself was therefore a general concept; while each specific offence had to be detected, processed and judged on its merits. Visitors to eighteenth century England were shocked by the austerity of the penal code and yet at the same time were amazed by the liberality of the English criminal procedure.¹ As is well known, between 1688 and 1820 a large amount of legislation, much of it concerned with property offences, brought the total of statutes referring to capital crimes to well over 200.² And yet, according to some contemporaries, it was because the preliminary stages of justice - detection and apprehension - were so liberal and ad hoc in their organisation that there needed to be a proliferation of such severe laws.³

¹For a comprehensive introduction to the views of foreign observers on the state of crime and criminal procedure in eighteenth-century England, see inter alia, Radzinowicz, op.cit., I, 699-726.

²Ibid., I, 3-5, points to some of the difficulties of calculating precisely the number of capital statutes created during this period. In any case, the growth in capital statutes did not necessarily mean the creation of new offences or that the law would be applied more stringently. The few thefts that were prosecuted by the 1751 Act (see above, p.132) could have been proceeded against using earlier, more general legislation like that of 1 Edw. VI, cap.12, against burglary, while the Bumboat Act, 1763 (see above, p.135) was seldom used.

³The main proponents of the imposition of the 'Bloody Code' are discussed in Radzinowicz, op.cit., I, 231-57.

If there was such a thing as eighteenth-century general opinion, then this ran in accordance with it: constitutional principles valued 'freedom' from executive control so highly that the law-makers were more willing to tolerate harsh laws than an efficacious police. It was often claimed that English public opinion prided itself upon the absence of a standing army, or anything like the methods of surveillance that they believed oppressed the foreigners who were so astounded by the English System. But, as one foreigner, Montesquieu, explained, this was precisely why laws remained in credit¹ - a few were hanged in order that all the others should be free - free from a preventive police. Consequently the powers of justices, constables, and watchmen remained limited, and it was hoped that capital punishment of the most flagrant criminals would provide an awesome deterrent to the population as a whole.²

¹C. de Secondat, Baron de Montesquieu, The Spirit of Laws (translated by T. Nugent, revised by J.V. Prichard, 1952), pp.38-42. Indeed, the 'Bloody Code' was only moderately applied: i.e. the number of hangings did not increase relative to the introduction of capital statutes (on which see Beattie, Crime and the Courts, pp.313-18, 531-38) and in that sense the law did not become more severe. However, the issue is complicated by the use of transportation; and its especial punitive characteristics must also be borne in mind. See ibid., pp.450-519, and P. Linebaugh, '(Marxist) Social History and, (Conservative) Legal History: A Reply to Professor Langbein', New York University Law Review, LX (1985), 213.

²The views of law reformers of the late eighteenth and early nineteenth centuries, and other critics of the 'Bloody Code', form the basis of this traditional interpretation of contemporary attitudes towards penal policy in eighteenth-century England, which was popularised by Radzinowicz's influential work. (See Radzinowicz, op.cit., I, *passim*).

However, it is probably true to say that people did not leave their property and lives at risk simply because of their love of liberty, even if constitutional rights were sanctified. The diehard opponents of criminal law reform also feared change. It was no coincidence that Henry Fielding's Enquiry into the Causes of the Late Increase of Robbers began with a revolutionary preface, taking the 'sacred bull' of the English Constitution by the horns. As well as giving his expert consideration of crime in London, he challenged the deeply-entrenched view that liberty and the effective administration of justice were incompatible. And he left his reader to conjure with the paradox of why a nation: 'so jealous of her liberties... [should]... quietly support the invasion of her properties by a few of the lowest and vilest among us... Doth not this situation in reality level us with the most enslaved country?'¹ In a nutshell, Fielding's and the reformers' case was that the severity of the law was self-defeating. It only made punishment less certain and therefore encouraged crime. In addition, the liberal criminal procedure favoured the guilty as well as the innocent. An eighteenth-century criminal ran little chance of being hanged and even more importantly he was unlikely, unless he was unlucky, to be arrested in the first place.

¹Fielding, Enquiry, pp.v-xv.

The previous chapters have indicated the complexities of the situation, certainly as far as pilfering cases on the London dockside were concerned. In terms of a constabulary presence, London's waterfront was well-policed by the standards of the day. Men, paid by the merchants or the Customs, patrolled the wharves, and developments in security on boats and in warehouses meant that the law could be enforced. Moreover, the accessibility of constables for would-be prosecutors and watchmen, as well as refinements in methods of detection, illustrated in the testimony of the Old Bailey records, promoted the likelihood of securing offenders.

How then was it that the 'immense plunder and pillage'¹ so vividly described by Patrick Colquhoun in the 1790s was so poorly reflected in the total number of prosecutions of dockside pilferers? For these cases there were clearly alternatives to indictable proceedings. Evidence suggests that an early decision by a constable, magistrate or prosecutor to interpret the offence as petty rather than felonious could lead an offender to answer charges at the Bridewell Court or receive a beating or verbal warning. For crimes then, which could be proceeded against in such diverse ways, an analysis of indictable offences would in itself be insufficient; many cases were directed

¹Colquhoun, Police, p.57.

into the framework of summary jurisdiction or dealt with even less formally than that.

Finally, there was also the crucial question of whether all appropriations were considered by employers or employees to be criminous. What may have been seen as 'plunder or pillage' or, more simply, pilfering in a strictly legal context, could, in the context of *dockside* labour organisation, be viewed instead as a legitimate perquisite, in part or full payment for a service rendered. To employees, it conferred the basic benefit of remuneration, because in eighteenth-century London appropriated goods could readily be exchanged for cash. This mixed wage system also conferred benefits on employers. The giving of perquisites could often help to mobilise labour and hence enable goods to be cleared from ships, wharves, and warehouses quickly. So long as appropriations did not exceed the merchants' bounds of acceptability, by cutting too deeply into their profit margins, they too would condone perquisites. However, when goods were appropriated outside of the labour context, or in the view of employers and even fellow workers, in too great a quantity, the bounds of acceptability were breached. At that point mechanisms of law had a significant role in establishing boundaries between perquisites and pilfering.

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